

BI-CENTENNIAL CELEBRATION OF THE BOARD OF AMERICAN
PROPRIETORS OF EAST NEW JERSEY

M. L.

23

W.A. 50

REYNOLDS HISTORICAL
GENEALOGY COLLECTION

✓

ALLEN COUNTY PUBLIC LIBRARY



3 1833 02247 6607

Bi-Centennial Celebration,
OF THE
BOARD OF
AMERICAN PROPRIETORS
OF
EAST NEW JERSEY.

At Perth Amboy, Tuesday, November 25, 1884.



NEWARK, N. J.:
PRESS OF THE ADVERTISER PRINTING HOUSE.
1885.

1764923

F
853
.629

Board of general proprietors of the eastern division of New Jersey.

Bi-centennial celebration of the Board of American proprietors of East New Jersey. At Perth Amboy, Tuesday, November 25, 1884. Newark, N. J., Press of the Advertiser printing house, 1885.

82 p. incl. map. fold. map. 23^{cm}.

1. New Jersey—Hist.—Colonial period.

Library of Congress

F137.B66

1-13401



Digitized by the Internet Archive
in 2016

<https://archive.org/details/bicentennialcele00boar>

AT THE semi-annual session of the Council of Proprietors, at the Surveyor-General's office in Perth Amboy, N. J., on the third Tuesday of May, 1884, it was resolved that the approaching two hundredth anniversary of the Board of American Proprietors should be commemorated by appropriate exercises, and the Executive Committee were authorized to make the necessary arrangements for that purpose.

A meeting of the Executive Committee was held at Perth Amboy on the second of July, to carry out the above resolution. Plans for the exercises were matured and the work of preparation begun. It was carried forward in successive meetings, with the results given in the following pages.

The public addresses were delivered in the City Hall, and the collation was served in the same building. There was a large and appreciate audience present, and much interest was shown in the occasion which had brought them together, as well as in the matters presented by the speakers.

The Executive Committee are glad to make public acknowledgment of the attention shown them by the Mayor and Common Council of Perth Amboy, and by the committee of ladies and gentlemen who assisted in the entertainment of the visitors; and their thanks are especially due to the gentlemen whose able, appropriate and interesting addresses graced these commemorating exercises

CHARLES E. NOBLE, *President*,
GEORGE H. COOK, *Surveyor-General*,
WILLIAM M. FORCE, *Register*,
Hon. AMOS CLARK, JR.,
TIMOTHY LORD, Esq.,
U. B. WATSON, Esq.,

Executive Committee.

CONTENTS.

I.—HISTORICAL ADDRESS BY HON. CORTLANDT PARKER,
of Newark, N. J.

II.—STATEMENTS, WITH EXHIBITION OF MAPS, explanatory
of the Location and Boundaries of East New
Jersey, by PROF. GEORGE H. COOK, *Surveyor-
General*, of New Brunswick, N. J.

III.—ADDRESS: "The Influence of the Proprietors in
Founding the State," by PROF. AUSTIN SCOTT,
of Rutgers College, New Brunswick, N. J.

MR. PARKER'S ADDRESS.

A few weeks ago, England and America sympathized in the celebration of the centennial birthday of a great Hebrew philanthropist, a most interesting and praiseworthy reunion. To-day we celebrate here in their ancient and original home the bi-centennial anniversary of the organization of a body, once Lords by title, and, in fact, of New Jersey and of her domain; no representative creation "of the people, by the people and for the people," but acquiring the title to soil and Government too, by conveyance from the British crown; from whom the title to every foot of land in New Jersey springs; and among whom, even after Government was surrendered, her chief and most influential citizens were to be found. Little by little the domain, the possession of which gave the Proprietors consequence, has passed from their hands. What is left in their control is now of comparatively slight value. But there is enough remaining to make the Board still possess great consequence. And though but a ghost of its former self, it is proper and right that they should meet upon this day, look back on the two hundred years which have passed, and render the tribute of their respect to the wise, energetic and enterprising men who were their early predecessors.

The existence of a separate Board or Council of Proprietors from whom all titles are derived, instead of obtaining them from the governing power, as is the case, I believe, in all the other States of the Union, is a fact which, well understood among native Jerseymen, almost always seems strange to those who are not. And, therefore, it may be well, familiar as is the topic, to state succinctly how it came about that we had in New Jersey from the beginning, and have now as the fountain of all title, a private body of landowners.

The doctrine of English law was that discovery and conquest gave title, as to all heathen and uncivilized countries, to the British Crown. To use judicial language (C. J. Kirkpatrick in *Arnold v. Mundy*, 1 Halstead R. 1): "When Charles II. took possession of this country by his right of discovery, he took possession of it in his sovereign capacity. He had the same right in it and the same power over it as he had in and over his other dominions, and no more. This right consisted in granting the soil to private persons for the purposes of settlement and colonization; of establishing a government, of supporting a governor, and of conveying to him all those things appurtenant to the sovereignty, commonly called royalties, for the benefit of the colonists."

Both discovery and conquest, it is claimed, gave the British crown the title to New Jersey.* "The English first discovered and took possession of this part of North America. Being at war with the States of Holland, they were driven out by their enemy, who took possession and built the city of New York, calling it New Amsterdam. They extended their settlements into New

*Wall and Scott arguing, 1 Halstead 18, 50.

Jersey, particularly into the adjacent counties of Bergen, Essex, Monmouth, Somerset and Middlesex, the first European inhabitants of which were generally Hollanders. But in 1664 the English reconquered the territory and expelled the Dutch Government. The King thus gained a new title by conquest of a civilized nation." On March 12, 1664, Charles II., by royal patent, granted New Jersey to his brother James, then Duke of York, afterwards Charles' successor upon the throne. He immediately took possession. Thus the landed property of New Jersey is held direct from the King of England.

This grant of the Duke gave not only the property in the soil, but also the right and power of government. No other title to the soil than his was ever recognized by the law. It was unappropriated land, a savage wilderness, a great waste. "To such property the law appoints the King as owner, because there is no other. Moreover, it is a fundamental principle of the common law, that all lands, even those of private persons, are held of the King. Where there is no private owner, therefore, all persons must claim through him." (3 Bl. Com. 49, 50.) In respect to the old settled and granted lands, this may be a fiction of law, but it is truth and history here. It was a newly discovered wilderness conquered by the King of England; it was the King's from necessity, and belonged to him solely, substantially and beneficially.

Shortly after this deed, James, Duke of York, conveyed the land and the government to John Lord Berkeley and to Sir George Carteret. These men had been distinguished for their loyalty during the civil war, and the grant was an evident reward. Carteret had

been Governor of the Island of Jersey, and was distinguished for his defence of it against the troops of the Parliament. Hence the name Nova Cesarea or New Jersey.

Phillip Carteret, the first Proprietary Governor, with the first settlers under Berkeley and Carteret, arrived in New Jersey in the Summer of 1665. By the treaty of Breda in 1667, New Jersey was formally ceded by the Dutch to the King of England. This gave rise to a new grant, July 29th, 1674, by the King to the Duke of York, and by the Duke to Berkeley and Carteret anew. In July, 1676, the province was divided between the two Proprietors, Carteret taking East Jersey, and Berkeley West. Thereupon, Carteret, by will, devised his plantation of New Jersey to trustees to be sold for certain purposes, by him stated, in 1681-2. The trustees and his widow, executrix, sold all East Jersey to twelve Proprietors, who, again, conveyed half of their interest to twelve others. This conveyance was strengthened by a release to the twenty-four by the Duke of York, in 1682.

Each Proprietor had a twenty-fourth interest in the property, inheritable, divisible, and assignable, as if it were a farm instead of a province. And by these means the estate has come down to those who now own the property. Every foot of ground in the State has once belonged to these Proprietors, and belongs to its present owner, as their successor, by and through the rules of Common and Statutory Law.

The rules of the Proprietors, forming an agreement between them, have established two modes of conveying titles in severalty to their lands. One is by letters patent—a plan pursued in the earliest period, but long

ago abandoned—the other by what is called warrant and survey, the method followed for many years past. It is thus clearly described by Chief-Justice Kirkpatrick: “The Proprietors of New Jersey are tenants in common of the soil. Their mode of securing the common right is by issuing warrants from time to time to the respective Proprietors, according to their respective and several rights, authorizing them to survey and appropriate in severalty the quantities therein contained. Such warrant does not convey a title to the Proprietor; he had that before. It only authorizes him to sever so much from the common stock, and operates as a release to testify such severance. This is manifestly the case when the Proprietor locates for himself. When, instead of locating for himself, he sells his warrant to another, that other becomes a tenant in common with all the Proprietors *pro tanto*, and in the same manner he proceeds to convert his common into a several right. It is true that the survey made in pursuance of this warrant must be inspected by the Surveyor-General, approved by the Board, and registered in their books; but all this is for the sake of security, order and regularity only, and is by no means the passing of the title. It proves that the title has passed, but it is not the means of passing it.”

As survey after survey has been made upon warrant, approved and registered, the domain of common land has diminished in extent. But at least until all New Jersey has been so disposed of this Board must continue to exist.

The United States Government owns, or rather, has owned, all the great West through conquest or through treaty. Therefore, a party desiring land goes to the

Government officer, and on complying with established regulations, gets a patent or a deed. The States respectively own lands within their boundaries. They acquired them, each for itself, by conquest or by treaty, or later, by taxation and sale therefor. In New Jersey, however, our Legislature has nothing at all to do with our waste or unappropriated land. It all belongs to the Proprietors, to those, namely, who own what are known as Proprietary rights, or rights of Proprietorship, and is subject to the disposition of the Board of Proprietors. Any one who holds one quarter share of Propriety, I understand to be admissible to a seat as one of the Board.

I hope it is not invidious for me to add, just at this point, that it is questionable whether the plan followed for so many years, in disposing of unappropriated lands in New Jersey might not have been improved upon. It certainly has been susceptible of much abuse. Surveys have, of course, and necessarily, taken precedence according to record. Hence, careless and unwary people have, more or less frequently, lost their lands. And again, blanket or "including" surveys have been allowed—surveys, that is, which have comprised within their limits other surveys theretofore made, and which leave dispute possible as to where the boundaries of excepted surveys are, and as to how much land is lying outside of them and within the boundaries of the inclusive one. I venture to think, beside, that sufficient attention has not been paid to the registration and perpetuation of beginning monuments. Nor am I quite clear that the practice of avoiding, in surveys, the mention of any monuments but the beginning one has contributed to peace and the avoidance of dispute concerning boundaries.

It is questionable, may I be permitted to suggest, whether it would not have been wise, if feasible, to have made, early, correct maps of every township in the State, upon which each return and survey as made should be laid down, and which would thus exhibit always to the eye, whether there was unappropriated land within the bounds of that township and what and where it was. Such a scheme, or one similar to that under which the great State of New York was laid out, mapped and divided into sections, would have contributed, I think, to that certainty in regard to boundaries of land, which should be and doubtless has been the great motive of a Board sustaining the dignified position towards the community of New Jersey, always occupied by this ancient and venerable body. Even now it would seem not to be too late for action of this nature; not, indeed, that the Proprietors themselves can be justly called upon to undergo such an expense, especially in view of the small area still belonging to them. But would it not be policy for the Proprietors to sell and convey to the State all their interests and rights remaining in its soil, and for the State to buy and then to cause complete surveys, such as those sketched, to be made, with the view of perfect certainty, and that boundaries now existing but not clearly established, may be free from future disturbance? This seems to me to be an argument for such a purchase, closing forever the existence of this anomaly in practice as to the devolution of land titles, additional to that of thereby settling all disputes between the State and the Proprietors, growing out of the language of the early grants, the surrender of Government to Queen Anne, the acquisition afterwards, by the State, through the Revolution of 1776, of the rights of

the crown, and all other possible claims. It is time, many think, that this *imperium in imperio*, this Lordship over ungranted land, should come to an end.

But I confess that these explanations and suggestions are scarcely in place to-day, dedicated as it is to the memory of those who first composed the Board, and their immediate successors. We have to do with the past—perhaps with the past only. Who and what manner of men were they, these early Lords Proprietors? What sort of a country was this now fair and thriving Jersey, in those far away times?

Subjects which have filled volumes can hardly be adequately, or with any approach to adequacy, treated on an occasion like this. All that can be done is to present some faint glimpses of early days; of the men who lived in them, and of the fair land we now inhabit.

The now well-known book of George Scot, of Pitlochrie, reprinted and annexed to the excellent work of the late William A. Whitehead, "East Jersey under the Proprietary Government," with several letters appended, gives us very full knowledge of the early attractions of our beloved State. It is true, Scot's book presents internal evidence that it was written as a recommendation to emigration. And yet exaggeration in these days was slight compared with such works now. He published his book in 1685. It is quaint, learned, prolix, and shows him to be a single-hearted religionist of the Scottish type. Yet his description of New Jersey as it then was is exceedingly interesting, and evidently reliable. He extols its climate—the same, he says, with Naples—the fertility of its soil, its convenience of situation, lying upon that "vast navigable stream called Hudson's river, and also upon the sea, along which it stretches 100 miles or

more;" its harbors, especially that noted "Sandy Hook bay," its fisheries for "whales, coadfish, colling and hakefish, and large mackerel," for sturgeon, scalefish, eels and shellfish, as oysters, its rivers and rivulets, with their finny inhabitants, its meadow lands along their banks; its fine timber, such as good oak, "fit for shipping and masts," and also chestnut, walnut, poplar, cedar, ash, fir; its fertility, being cleared, "which yields a vast increase, not only of Indian corn, which is a very wholesome food, but of English grain, such as wheat and barley, whereof it usually yields betwixt the 20th and 30th fold, and with far less labor than in Britain; its products, such as flax and hemp, its grass, its fruits, as grapes, plums, mulberries and also apricots, peaches, pears, apples, quinces, watermelons, which are in England planted in orchards and gardens, but grow there with far less labor;" its game, as deer, connies and wild fowl of several sorts, as turkies, pigeons, partridges, plovers, quails, wild swans and geese, ducks in great plenty; its domestic animals, as horses, cows, hogs and some sheep; its minerals; its furs, beaver, mink, raccoon and marten skins. He celebrates the fewness of the Indians, their peaceableness, their usefulness to the colonists, their friendliness, being conciliated by purchasing their lands instead of compelling their submission by force of arms; but most does he dwell on the freedom guaranteed by the grants and concessions, especially on what he regards as the perfection of religious freedom, in that, "to be a planter or inhabitant nothing is required but the acknowledgment of one Almighty God, and to have a share in the government, a simple profession of faith in Jesus Christ, without descending into any other of the differences among Christians, only that religion

may not be a cloak for disturbance." He celebrates the rapid growth of the colony in population and enumerates its settled towns, such as Shrewsbury, with Colonel Morris' iron mills, his manor, etc., the whole population computed at 400; Middletown, with about 500, and among them a Captain John Brown, not quite so famous as he of later date and immortal memory, of whose body and soul we all have heard; and also Richard Hartshorne, whose name and race have come down to our day, famous on the very spot where their great ancestors bled and died. He mentions also Piscataway or Piscatawa, a town which has not kept pace with his expectations—Woodbridge, Elizabethtown and Newark or Milford. "In this town," he says; "hath been a Court of Sessions, held between this and Elizabethtown." It is the most compact town in the province, and consists of about one hundred families, and of about 500 inhabitants. He has a good deal to say of Berghan, and makes out that all the population of the colony equals 700 families and 3,500 people.

A letter of Thomas Rudyard, Deputy-Governor of East New Jersey, to a friend in London, dated May 30, 1683, is the fullest and most succinct account of the country and its people. ("East Jersey Under the Proprietors," page 410.)

It was the day of small things, this infancy of New Jersey. Its first Legislative Assembly met May 26, 1668. Thirty pounds was levied on the different towns to defray the public charges—five pounds on each of the six towns. When Philip Carteret came, first Governor of the colony, he found at Elizabeth, his future residence, four families. What a kingdom that must have seemed to him, a youth of twenty-six, clothed

abroad with the title of Governor of the Province of Nova Cesarea, when he came to this wilderness and found what was its population! He was equal to the occasion. As he left his vessel at the port, he went to the settlement with a hoe on his shoulder that all might see that he, like the inhabitants already come, was to be a planter. A good young man was he, who endeavored with all his might to maintain the peace, and increase the property of the infant province. He had not a peaceable time. Indeed, anything like constant peace was the lot of very few of New Jersey's early Governors. Governor Andros, of New York, disputed Carteret's authority; nay, failing by peaceable means to gain his point, he sent a party of soldiers by night, who dragged Carteret from his bed, carried him to New York, and there kept him close until a day was set on which he was tried before his opponent himself in the New York Courts, and three times acquitted by the jury, who were sent back with directions to convict, but firmly each time refused.

The authority of Carteret was confirmed by the Duke of York, and Andros was recalled. But Jersey was then an insignificant place indeed. For Governor John Winthrop, of Connecticut, writing July 18, 1665, speaks of it thus: "New Jersey, which is a place I know not, nor ever have heard where it is."

Woodbridge, in 1667, and Newark, in 1666, were settled from New England on the invitation of Governor Carteret, and in consequence of the favorable terms which he held out. The settlers were to extinguish the Indian title for themselves, and, that being done, a nominal quit rent only was demanded. Thus more strong blood was transplanted to New Jersey. It

had Holland blood some years before in Bergen and in Somerset. It acquired Puritan in 1666, and Huguenots came with the Dutch. Some years afterwards came the Scotch, who first settled Amboy, called it Perth after their most distinguished companion, and made it the home of Johnstons, Gordons, Skinners, properly McGregors, Alexanders, Hamiltons, Barclays, Fullertons, Scotts, Rutherfurds and other Scottish folk. This infusion had much to do with the shaping of the colony. The decided and conservative character of East New Jersey, the enterprise of Newark, the sturdy industry of our agricultural counties, the independence of all—in short, the individuality of the State, more striking perhaps than that of any other, is the plain outgrowth of the fusion of their different but excellent nationalities. There is no frivolity in the character of any of these compounds, and the absence of excitability, of gregarious following of leaders or adoption of ideas, is a marked attribute to-day of the native Jerseyman.

The council of Governor Carteret were persons not much known to fame, then or ever. The leading man among them was a Frenchman named Robert Vauquellens, first Surveyor-General of the Province, who, with his wife, accompanied the Governor in his passage across the sea. The trustees of Sir George Carteret could not make sale of East Jersey. After ineffectual attempts at private sale they offered it at public auction, and William Penn and eleven associates, most if not all Quakers, bought it for £3,400. It was too heavy a purchase, apparently, for their management. Each sold half his right to another, and so were constituted the twenty-four Proprietors. They procured a deed of confirmation from the Duke of York March 14th, 1682,

and then the twenty-four Lords Proprietors by sealed instrument established a council, gave them power to appoint overseers, and displace all officers necessary to manage their property, to take care of their lands, deed them, appoint dividends, settle the rights of particular Proprietors in such dividends, grant warrants of survey, in fine, to do everything necessary for the profitable disposition of all the territory. The council was always to represent one-third of the general Proprietors.

The new Proprietors were men of rank. William Penn is known to all the world. With him were James, Earl of Perth, John Drummond, Robert Barclay, famous, like Penn, as a Quaker gentleman, and a controversialist for Quaker belief; David Barclay, Robert Gordon, Arent Sonmans, Robert West, Thomas Rudyard, a lawyer who had won fame in London as defender of William Penn; Samuel Groom, Thomas Hart, Richard Mew, Ambrose Rigg, John Heywood, Hugh Hartshorn, progenitor of the distinguished landowners as stated near Sandy Hook; Clement Plumsted, Thomas Cooper, Gawen Lawrie, Edward Byllinge, James Brain, William Gibson, Thomas Barker, Robert Turner and Thomas Warne.

Robert Barclay was appointed Governor for life, but with liberty to act by deputy, and Thomas Rudyard was selected for this office. He came here in 1683, and his council were Lewis Morris, of Barbadoes, a large iron man in Monmouth, John Barr and William Sanford, with others less known to fame.

Gawen Lawrie succeeded Rudyard in a very short time after the latter's appointment, and under him a considerable Scotch emigration took place. Under him,

too, Perth Amboy was laid out, a favorite object with the early Proprietors. Lawrie held his office but a little while, and to him succeeded Lord Neill Campbell, a brother of the Duke of Argyle, implicated with him in treasonable invasion of Scotland in 1685. He retained Gawen Lawrie as one of his council. He remained, however, scarcely a year, appointing Andrew Hamilton as his substitute. Troubles sprung up during his administration, with New York, to settle which Hamilton set out for England, but on his passage was captured by the French and for some time detained.

Governorships were short in the New Province. Hamilton, reappointed in 1692—and to whose care as Governor, West Jersey was also confided—who was likewise, during the same period, Postmaster-General of America, held office no longer than 1697, England having passed an act requiring that proprietary Governors should be approved by the King, and that no other than a native of England should hold an office of trust or profit. The Proprietors unwillingly parted with him. Jeremiah Basse succeeded him, but troubles recurring, Hamilton came back in 1699, and retained the office till his death in 1703.

In 1702 occurred the surrender to Queen Anne of the right of government, an event having an unintended but most important effect on the extent of the proprietary domain; an effect, however, not announced, if discovered, till many years had intervened. Lord Cornbury then came, first Governor under the Crown. This event diminished greatly the consequence of the Board. Its nominee no longer gave or communicated, or was required to approve, the laws of the province. It became what it ought to have been from the beginning, merely

an association of landowners. But men of great eminence and force still managed the body. Singularly enough, as it seems to me, it was never formally incorporated. I suppose that it may, nevertheless, be a corporation. While there existed much land undisposed of, the active directors of the association were men who made their mark. Such were Lewis Morris, John Burnet, Richard Ashfield, James Alexander, John Johnston, John Parker, John Hamilton, Lewis Johnston, Andrew Johnston, Joseph Murray, Samuel Nevill, Robert Hunter Morris, Elisha Parker, John Stevens, Walter Rutherford, Cortlandt Skinner, William Skinner, William Burnet, David Ogden, acting for the sons of William Penn, Oliver De Lancy, Henry Cuyler, Jr., and William Alexander, Lord Sterling. I give the prominent names from 1735 to 1764.

It would be gratifying could we do more than recall the names of these worthies, could cry to the dry bones of the slain and make them live again. But the task is not within the compass of our time. Let me, however, call up from the past, as well as the scant materials enable us, the forms of some of the most notable among those I have named.

And first of all I mention, because of his absorbing interest in proprietary rights, the distinguished JAMES ALEXANDER. The minutes of the Council of Proprietors from 1725 to 1756 are a monument of the devotion, zeal, intelligence and unremitting and absorbing care of this gentleman for the interests of this Association. How much earlier he bestowed this attention I am not able from the material furnished me to say. But during this period it might be said of him that he well-nigh embodied the Board. If he did not with his own hand pen

the minutes, they must have received his particular and most scrupulous supervision. They recount his history and the employment of his time. They refer to incidents now historical and most valuable to the general public. They ought to be sought for by the State and published in the collections of her archives now in course of annual issue.

We form our ideas of the character of Washington by studying not only his public and private correspondence, but his minute and exact and just accounts. We think him a greater Washington because we find him making record of the most unimportant particulars with his own hand. We increase our good opinion of him by noticing the neatness, precision and clearness of his handwriting, and any one who will peruse these minutes, tiresome as he may find the task, will rise from it with a conviction that James Alexander was a man of highest value, and inestimably useful to the Proprietors, and through them to all who under them own the land composing East New Jersey.

It was not the fashion in those days, as it is perhaps too much so now, to make the death of an associate the occasion for eulogistic corporate action. I am not sure that this huge book of minutes contains any passed in relation to any other of the very distinguished gentlemen who, during that period, deceased. But when he died, in 1756, a letter of condolence to Mrs Alexander, reported by a committee composed of Robert Morris, Richard Ashfield, Richard Peters and Cortlandt Skinner, was addressed to the widow of their old associate in the following words:

Madam: The Council of Proprietors of East New Jersey take this opportunity of their first meeting since the death of Mr. Alexander to

make you and your family their sincere and cordial condolence on this mournful and unexpected event. When alive they esteemed him, they trusted him, they loved him. They have reason, therefore, now that he is taken from them, to bear part in your grief, having lost their counsellor, their friend and their unwearied assistant.

The Council, sensible of the manifold obligations his friendship and services have laid them under, think it their duty to assure the family that we shall never fail to give them all the assistance in our power for completing their titles or the recovering their rights to any land of his in this division, or to do anything else which you shall be advised we can do for your benefit.

At the same meeting his son, William Alexander, Lord Sterling, was made Surveyor-General in his father's room, who had held the office so long that precedents for a commission were directed to be sought for. He became such in 1716, forty years before his death.

James Alexander was a Scotchman. He was out in the rebellion of 1715, in which his friend and sometime associate, the afterward Rev. William Skinner, of Perth Amboy, believed on best authority to have really been a leader of the clan MacGregor, participated. He took refuge here the next year. He was a proficient in mathematics, and distinguished as an engineer.

Notwithstanding that he was a political refugee, he enjoyed the friendship and patronage of the great Duke of Argyle, immortalized by Scott in the "Heart of Midlothian," and through him had the good will of the representatives here of the house of Brunswick. Soon after arriving in New York he received an official appointment and won distinction in it. He soon obtained the post of Surveyor-General both in New York and New Jersey, and in 1720 Governor Burnet, another Scotchman, made him a member of his council. While

thus employed Mr. Alexander studied law, and when called to the bar became rapidly eminent, not as a speaker, his eulogists grant that, but for profound legal knowledge, sagacity and penetration. He enjoyed the good fortune, however, rare for any lawyer, of identifying his name with an historical cause, the trial of John Peter Zenger, printer of the *New York Weekly Journal*, for libel.

These colonial times were now and then quite stirring. Whether it was because most of the inhabitants of the Provinces had been engaged in political or religious disturbance at home, or because when they came here the air was prophetic and inspired a love for liberty, and a tendency to resist power, the history of almost every Governor was one of contest with the people. These were, it is true, very few, and so the fact is more remarkable. But whether or not it illustrated a familiar vulgarity, certainly there was much tempest in every Province.

The Governor of New York in 1732 adopted certain unwarrantable proceedings, yet had his legislative bodies with him. But the courts of law refused to obey his mandate. Thereupon he displaced Chief-Justice Morris and appointed in his stead James DeLancey. Then the people established the *Weekly Journal*, which took their side with that energy in which newspapers seldom fail, and one of its articles, which to-day would be regarded as rather harmless, was singled out for prosecution by information; the Grand Jury refused to indict, and the trial came on before the new Chief-Justice.

James Alexander and William Smith, another distinguished lawyer who had come over in the same ship with Alexander, volunteered in Zenger, the editor's

defence. Aware, evidently, of the stringent law then existing, expressed in the maxim, "The greater the truth, the greater the libel," these gentlemen challenged the Court. They objected that their commissions were during the Governor's will and pleasure, and not during good behavior, as they should be, and took other points somewhat technical in their character: When they presented their exceptions the Chief-Justice warned them that it was contempt. They persevered, and asked next day to be heard. "We will neither hear you nor allow the exceptions," said the Chief-Justice; "we must leave the Bench or you the Bar," and so he struck them from the list of attorneys. An old hero of the Philadelphia Bar, then, it is said, eighty years old, was brought thence to take the place of the disbarred victims of judicial tyranny. The trial of Zenger took place before a jury in 1735. It is a State trial of great celebrity, carefully reported, and probably printed by himself. It is to be found in Howell's Collections of State Trials, and its result is regarded not only as a forensic achievement of almost unequalled magnitude, but as "the germ of American Freedom, the Morning Star of that liberty which subsequently revolutionized America." Zenger, simply asserting that what he said was true, and that he had a right, therefore, to say it, was not only acquitted but canonized. And the magnificent old man, who at eighty years of age displayed the fire, the energy, and the impassioned eloquence of thirty-five, became the hero of the day. A magnificent banquet welcomed him from the court room. He was attended thither by an huzzaing multitude. He entered his barge to go home next day with the salute of cannon. The Common Council of New York presented

him the freedom of the city, and the gold box, enclosing it with the city arms engraved, commemorated his success and his merit.

Thus was old age enabled to win the crown of glory of a life time—as if to bid all men perceive that so long as one has life and health his exertions belong to his fellow creatures. Though Mr. Alexander could not in *propria persona* participate in the defence of Zenger, yet, martyrs as they were in his cause, it is impossible that they did not, behind the scenes, share the labors of his counsel, and equally so that they did not enjoy a large part of the popular favor which was most ostentatiously bestowed where it was safest to give it.

While this cause was going on in New York, Mr. Alexander, interested as a large Proprietor, as Surveyor-General in New Jersey, and as general counsel and factotum of the Council of Proprietors here, was engaged in looking after the popular difficulties in New Jersey which terminated in the celebrated law suit in our Chancery between the Proprietors as complainants, and what were called by them the Clinker Lot Right men, which suit was begun by the filing of what is popularly known as the Elizabethtown bill in Chancery.

Alexander here was not on the popular side. Though the population of East New Jersey, at that time, could scarcely have been twenty thousand, yet the feeling seems to have been intense. Trespasses, ejectments, riots, gaol breakings were the order of the day, and for ten years, law suits, their progress and their issue, were the chief employments of the half yearly councils. Eminent counsel from New York assisted. But the burden of the conflict, with all its tremendous detail, fell upon Mr. Alexander, aided, perhaps, at the very

last, by Elisha Parker, of Amboy, then or soon afterwards, his son-in-law, who was Solicitor of Record, but died soon after the filing of the bill.

It would be difficult, indeed, to tell the story of this cause, considering that the bill, the statement of the case for the Proprietors, fills eighty double-columned printed pages, each about eighteen inches long, and the exhibits and appendices nearly ninety more, much of them in finer print and containing many more words. This bill is the foundation of the history of East New Jersey, from the beginning up to its filing, April 13, 1745. Its object was to establish the title of the Proprietors against any other title up to that time alleged against it, to enforce it against recusant parties, to dissolve and enjoin an alleged conspiracy among the defendants hostile to it, and to enjoin all waste and the prosecution of certain ejectments affecting it.

The jurisdiction of the Court of Chancery on this bill has, I believe, been long somewhat questioned. But its object was somehow finally attained. The title denied to the Proprietors and asserted in this bill founded on the grants of Charles the Second to the Duke of York, of the Duke of York to Berkeley and Carteret, and thence to the twenty-four Proprietors and their assigns, has not seriously, for over one hundred years, been disputed in New Jersey.

It has, indeed, been held that adverse possession may be set up even against the Proprietors, and under this doctrine, in some cases, the proprietary title has failed. But the title itself has never during that period been impugned.

The learning, labor, ingenuity, fertility of resources, competency to deal with detail, and general legal ability

displayed in originating and carrying on this suit, entitle Mr. Alexander to very high rank as a lawyer. No one can doubt it who takes the trouble to study this bill, especially if he will also read the minutes of the Board during the ten or fifteen years of the gestation, birth and maintenance of this suit.

The establishment of the northern boundary between New York and New Jersey was another subject which engrossed the industrious and painstaking mind of Mr. Alexander, but without being finished during his life.

The fatal illness of Mr. Alexander arose from journeying to Albany when already ill, to oppose a ministerial scheme oppressive to the people. He was not only distinguished as a statesman and a lawyer, but also as a man of science. He is reputed the principal author of the memorable report on the Indian policy of Governor Burnet, and with Dr. Franklin, Francis Hopkinson and others founded the American Philosophical Society. He was a constant correspondent with Halley, the astronomer, and other learned men of science. About 1726 he married a wealthy widow, a Mrs. Provoost. He left one son, William, Lord Sterling, a Major-General in the Revolution, ancestor through one of his two daughters of the eminent John Duer, William A. Duer and their descendants; and four daughters, one of whom married Peter Van Brugh Livingston, and was ancestress of the family of Keans; Elizabeth, who married John Stevens, ancestress thus of all the scions of that noted Jersey family; Catharine, who first married Elisha Parker, and on his death, without issue, Walter Rutherford, mother thus of that equally distinguished race—and Susanna, who married John Reid.

Some correspondence appended to the life of William

Livingston shows that just before he died, Alexander, Cadawallader Colden, Mr. Livingston and Benjamin Franklin were busy planning a scheme for uniting all the colonies under one government, subordinate to the Crown, a scheme not unlike that now existing in the Dominion of Canada. Had it succeeded, what might have been the present condition of this hemisphere?

The length to which I have insensibly carried this notice of James Alexander precludes my bestowing equal attention on his very able associates in Proprietorship. And yet I cannot wholly omit them. Of some I must not speak, since I have derived from them my own lineage. But no one ought to pass the names of those whom I shall mention. There was Lewis Morris, Governor to succeed John Hamilton, himself a familiar face at the Board, appointed in 1738; he was President of the Council over ten years, ending in 1735, the year of the Zenger trial. He was in public life from 1704, when, at the age of thirty-three, he was one of Lord Cornbury's Council. That nobleman was not popular. His rather handsome face and bland manners attracted at first, but his demand for two thousand pounds salary for twenty years shocked the then not over rich people of New York and New Jersey. "Then thee must be very needy," said Quaker Samuel Jennings, when this demand was made. Lewis Morris had spent some time in England and had been a warm advocate for the surrender of government by the Proprietors to the Crown, which occurred in 1702. The Lords of Trade named him, then scarce thirty years old, for Governor of New Jersey, but determined on uniting the two Provinces, New Jersey and New York, under Cornbury.

LEWIS MORRIS was a dashing and eccentric young

man. His father, Richard Morris, active under Cromwell, found a refuge in New York at the Restoration. He obtained a grant in 1661 for three thousand acres on the Harlem river, where he built, calling it Morrissania. He died, leaving his son a babe. Colonel Lewis Morris, of Barbadoes, came to New York and became guardian of his nephew. He bought four thousand acres in Monmouth, located iron mills, and created a great estate. This he gave his nephew, the future Governor, who, with what he inherited, was rich. He had been a wild, mischievous, prankish boy—had even run away from school to Jamaica. But at twenty he returned, fell in love with a beautiful girl, and married her. Next, no one knowing where, he studied law, and and he appeared as a Judge in New Jersey, probably of Common Pleas. Governor Hamilton made him one of his council. He was a man of keen insight into character, original, a strong, direct thinker, a blunt, sententious speaker. He did not like Lord Cornbury—opposed him almost disrespectfully, and thus lost office. But in 1715 Governor Hunter made him Chief-Justice of New York. This post he retained under Governor Burnet, another of those who sat at the Proprietary Board, but Cosby, who succeeded Burnet, and he did not agree. He was, therefore, removed, and DeLancey, the Judge who tried Zenger, took his place. Cosby's general administration was so obnoxious that, at the request of many, Morris went to England to remonstrate against his retention. But while he was there, annoyed with delays and the "insolence of office," Cosby died, and he was appointed Governor of New Jersey. This was in 1738. He died in office, 1746. His was a stormy life, indeed, the storms apparently much occasioned by his own self-

asserting disposition. But society in New York and East New Jersey was at that time in a state of ferment.

A traveller passing through New York during this period gives an odd account of how he was treated. He dined with some of the courtiers. "Fine times for a Dutch mob to judge of progressiveness," said one. "These Dutchmen will fancy by and by that they are in Holland and treat us like a parcel of Burgomasters," said another; and so the talk went on. He tried going among "no party" men, but found these were courtiers too. He went to a club of both party men, and thought they would have eaten each other up. He got among them and found they thought the courtiers the common enemies of mankind. He sought the Prudents and found them bores. He took refuge with the ladies only to find them the most zealous of politicians. They were "courtiers and no party women, both party women and Prudents, all as warm as scalloped oysters in discussion, though he admits they were exceptionally good natured." Robert Hunter Morris, son of Colonel Lewis Morris, his companion in his last visit to England, Chief-Justice of New Jersey till his death in 1764, is another of those whose strong, bold signature enriched the volume of proprietary minutes. A strange death for a Chief-Justice,—he fell dead in a dance, not a German either, but apparently a Virginia reel.

WILLIAM BURNET, son of Bishop Burnet, like Alexander and several others, was a Scotchman, a man of noble character and presence. "A man," said Alexander of him, "who, bating warmth, was always without a fault, and that by degrees he became nearer and nearer master of, and in time, had he lived, would probably have been entirely so." His coming to New

York in 1720 was an event of great interest. Flags, cannon, parades, balconies loaded with fair forms, inaugurated him into office. "He was," says the industrious and most satisfactory historian, Mrs. Lamb, "a free and easy widower, large, graceful, of stately presence, dignified on occasions, but usually gay, talkative and condescending. He was reputed handsome, and greatly admired by the ladies, to whom he was especially devoted." A gentleman wrote: "We do not know yet how the fathers and husbands are going to like Governor Burnet, but we are quite sure the wives and daughters do so sufficiently." Carefully educated by his learned father, accustomed to highly cultivated society, a travelled man, when to travel was rare, full of humor and anecdote, genial and even familiar, he was rapidly and continuously popular. Nor was this only with Europeans; he won the hearts of the Indians, and took great interest in endeavoring to civilize and improve them.

On the death of George I., Governor Burnet was translated to Massachusetts and New Hampshire. But he died soon after going thither. Governor Burnet had his country seat in Perth Amboy, the same which had belonged to his predecessor and friend, Governor Hunter. It was situated on a knoll just south of St. Peter's Church, one of the loveliest points, certainly, of that most lovely locality.

It were hard to leave this list of worthies without dwelling upon the Johnstons.

Dr. JOHN JOHNSTON, one of the most valued citizens of the Province, a man of learning and skill, whose death—it was published—was to the inexpressible loss of the poor, who were always his most particular care, was

the first of these. His son Andrew, once President of the Board, who died in 1762, was, according to history, "a man of great equality of temper, circumspection of conduct, and open, yet grave, engaging mien, much goodness of heart, and many virtues, both public and private." Dr. Lewis Johnston was another member, and son of the first named.

Equally hard is it to omit the mention of others who distinguished themselves and progenitors of distinguished men; such as Michael Kearny, whose blood was in the veins of two of the nation's heroes Lawrence Kearny, of the Navy and Phillip Kearny, of the Army; and Thomas Gordon, from whom came several of his own name famous in history; and also the honored family of Hamersley.

I mention but one more of the ante-Revolutionary worthies, Samuel Nevill. He was the eldest brother of the wife of Peter Sonmans, a well-known early settler of New Jersey. On her death in 1735-6, he left London, where he was practicing at the Bar, and likewise editing the *Morning Post*, and came to Perth Amboy, where he settled, and was distinguished, rising to the Bench of the Supreme Court through membership of the Assembly and various other minor offices. He is known to the profession as the publisher of Nevill's laws, and was known to others as editor of a magazine published at Woodbridge by James Parker, the printer, the first periodical in New Jersey, the second upon the continent. He was Mr. Alexander's right hand man in all the litigation as to proprietary title. He died in 1764.

The Revolution of 1776 swept away the greatness of Perth Amboy and the grandees of the Council of Proprietors. The little city was for awhile under the guns

of the British, and was then occupied by them. Several of the principal citizens and Proprietors took farms and lived in Hunterdon. Such was the case with John Stevens and James Parker, residents of Amboy, and with John Rutherford, and I believe with others. When the war ended the glory of Amboy was gone. Its greatness had departed, and the Council of Proprietors no longer assembled so many distinguished persons. Yet some remained. There was William Alexander, Lord Sterling, of whom we have spoken, who was appointed Surveyor-General in 1761. There was John Rutherford, selected for the same office in 1771. And Andrew Bell came back, and in 1804 was made Surveyor-General, holding the office thirty-eight years, and till his death in 1842. James Parker came from Hunterdon, and his son succeeded him at his death in 1796, and filled the office of Register for many years. There were others of note, among them a shrewd, canny inhabitant of Sussex, Joseph Sharp, and a natty, comfortable gentleman from Monmouth, Robert Montgomery, upon the whiff of whose pipe I have often looked when a diminutive small boy. The most distinguished of these Proprietors since the Revolution were John Rutherford and Andrew Bell. In speaking of them I rely upon memory as well as publications. I remember them both well. John Rutherford, son of Walter and of Catharine, widow of Elisha Parker, *nee* Alexander, was a tall, gaunt person, very distinguished in his appearance, rather pale in countenance, sedate and grave in expression, yet full of intelligence and fire. At this time he was of very advanced years. He was born in 1760, graduated from Princeton College in 1775, married Helen, daughter of Lewis Morris, a signer of

the Declaration of Independence, a grandson of the Governor Lewis Morris already mentioned, was Senator of the United States from 1791 to 1793, and filled other important public positions. He died in 1840. He lived in a large mansion on the banks of the Passaic two miles north of Belleville, where he had a large estate. I suppose he was the largest landowner ever in New Jersey.

Who that ever knew him can fail to remember Andrew Bell—"Uncle Bell" as he was called by so many that had no right to the appellation of his nephews or nieces, that finally it came to pass that pretty much everybody adopted the endearing phrase. A fine old English gentleman he was—"one of the olden time"—though one must admit that, vexed as he was throughout his life with painful gout, and never, so far as known, having had the hardihood to own or use hunters, all of the grand old song can scarcely be used in application to him. Yet much of it can, nevertheless:

"He kept his fine old mansion at a bountiful old rate,
With a good old porter to relieve the old poor at his gate."

He was an embodiment of kindness, hospitality and good will; a scholar, a charitable, excellent old man, understanding fully the duty of minding his own business and letting other people's alone. He lived with his charming old wife and a maiden sister until their united ages exceeded 250 years--convincing proofs of the unhealthiness of Perth Amboy. His early life was one of excitement, in strong contrast to his later days. He studied law in the office of Cortlandt Skinner, Attorney-General of the Province, a Whig and a leader of Whigs, till the question of armed rebellion took place, when he

took sides with the Government to which he had sworn allegiance, and raised and commanded a brigade through the Revolutionary struggle. With young Bell, in the same office, studied Joseph Bloomfield, afterwards Governor of New Jersey. The lads parted; Bell joined the British; was for awhile Private Secretary of Sir Henry Clinton, then Commissary in the army. He was at the battle of Monmouth and there encountered in arms on the other side two Paterson brothers; one, I believe, the distinguished William Paterson, his brother-in-law. But it was difficult to believe, when one knew him, that such as he had ever been in battle. In 1804 he became Surveyor-General of East Jersey, and died in office, 1842, in the eighty-sixth year of his age. A stout, middle-sized man, with an exceedingly florid complexion and the whitest of hair, wearing always his gold-headed cane, and zealously attending the ancient Episcopal Church of St. Peter's, of which he was for thirty-three years a Warden, gathering up its contributions every Sunday. No one, I think, who ever saw him can forget the face and form of Andrew Bell.

With him I conclude my efforts to put before you the Lord Proprietors, as they were called first, in an adoption of feudal language; later, with more or less derision of the past. And yet I am tempted to give the roll of Surveyors-General since Mr. Bell; beginning with his nephew, Stephen Van Rennselaer Paterson, twin brother of Judge William Paterson, and comprising the very capable Francis W. Brinley, renowned as one of the best surveyors the State ever produced; in office from 1845 to 1859; his son, Edward Brinley, John Rutherford, the second, Munro Howell, and the present distinguished occupant of the post, Prof.

George H. Cook. My audience will recognize these names as worthy of high honor;—all but the last are gone.

My task is incomplete, tedious as I fear it has been, without an effort to present to mental vision the manner of life of the people, representatives of whom I have tried to acquaint you with.

The title of the Governor in those days was something alarming. The bill in Chancery already mentioned was addressed to "His Excellency, Lewis Morris, Esq., Captain-General and Governor-in-Chief of the Province of New Jersey and territories thereon depending in America, and Vice-Admiral in the same."

In 1682 a liberal computation made the inhabitants of all East Jersey three thousand five hundred. A still more liberal estimate makes the number in 1693 ten thousand.

In 1700 Governor Hamilton thought the males over sixteen in both East and West Jersey not more than two thousand—justifying the estimate of population as scarcely more than seven years previous. A census taken in 1725 gave the population of both Provinces as 32,442; Monmouth being the most populous county, Essex the second, Burlington the third, Middlesex the fourth.

Another census taken in 1737 gives the population of East Jersey as 23,395; fifty-three years after, in 1790, it was 111,272. There could not have been in 1776 more than 50,000 people in all East Jersey. In 1745 about half that number.

Such a computation gives us no very grand idea of

THE UNIVERSITY OF CHICAGO
LIBRARY

THE UNIVERSITY OF CHICAGO
LIBRARY

THE UNIVERSITY OF CHICAGO
LIBRARY

THE UNIVERSITY OF CHICAGO
LIBRARY

THE UNIVERSITY OF CHICAGO
LIBRARY

THE UNIVERSITY OF CHICAGO
LIBRARY

THE UNIVERSITY OF CHICAGO
LIBRARY

the importance of the lives of the really and evidently eminent men whose names and characters have been brought before you.

And yet luxury and display most unreasonable was early the order of the day. "The style of dress," says Mrs. Lamb, "was very showy and conspicuous. Gay pendants were worn in the ears, costly crosses were suspended about the neck, and diamonds and rich brocades were esteemed essential to respectability among the wealthier families; tight lacing and wide skirts prevailed, though not as extensively as a few years later. The hair was frizzled and curled, and arranged in a great variety of fantastic ways." The gentlemen outdid the ladies; they concealed their hair altogether by enormous wigs, which were supposed to greatly beautify the countenance. An advertisement in the *New York Gazette*, of 1733, throws a glimmer of light upon the prevailing fashion: "Morrison, Peruke maker from London, dresses gentleman's and ladies' hair in the politest taste. He has a choice parcel of human, horse and goat hair to dispose of." And another: "Tyes, bobs, majors, spencers, fox-tails and twists, together with curls or tales for the ladies." Bright colors everywhere prevailed. The most gorgeous combinations appeared in the fabrics for a lady's wardrobe, and gentlemen wore coats and other garments that came in all the hues of the rainbow. Large silver buttons adorned coats and vests, often with the initial of the wearer's name engraved upon each button. Occasionally an entire suit would be decorated with conch shell buttons, silver mounted. Even coaches were painted and gilded in an extraordinary manner. A writer of the day, seeing the equipage of Lewis Morris

rolling down Boadway towards the fort, speaks of its silver mountings glittering in the sunshine, and of the family arms emblazoned upon it in many places. The crest was a spacious stone castle with little turrets and battlements, the motto being "tandem vincitur," which was supposed to declare the virtue, perseverance, magnanimity and success of the Morris family against oppression of whatever character. Even servants aped their masters in style. We quote an advertisement: "Ran away—a negro servant clothed with damask breeches, black broadcloth vest, a broadcloth coat of copper color, lined and trimmed with black, and black stockings." "Ran away, a negro barber; wore a light wig, a gray kersey jacket lined with blue, a light pair of drugget breeches with glass buttons, black roll-up stockings, square toed shoes, a white vest with yellow buttons and linings." These in 1731 and 1734.

Architecture had scarcely, perhaps, attained in this country all that the era of Queen Anne exhibited in London. That is reserved, it seems, for our own days. But wherever the money came from (the most lucrative business was the slave trade) fashion and folly made most extravagant use of it as well in the humbler Province of New Jersey as in the ambitious city of New York. Those who would have a minute conception of the men and women of that day, need subtract little from those of England at the same period. The polished periods of Macaulay, Thackeray, and the late history of The Four Georges, by Justin McCarthy, will enable all to see as in a mirror the Lords Proprietors of 1684 to 1764, their families and their mode of life.

I was lately on the water stretching between Paulus Hook and New Amsterdam, when a marvellous sight invited my admiring gaze. Up the stream, and passing in front of me came a ship, a mammoth of the deep, her deck containing in square feet half an acre ; her hull enclosing some five thousand tons of measurement, silent, majestic, swift, cleaving the pure water which seemed to cling delighted to her sides ; without a sail, moving against the wind, standing up like a huge house, her gunwale twenty feet above the waves, while her keel sank in them an equal depth ; the flag of England at her peak, and a banner with stripes and stars from her naked topmast ; her deck, from stem to stern, covered with men and women gazing curiously, half-astonished, half-delighted, on the scene around, while all about and around her moved crowds of craft, each peculiar and individual ; some small snorting vessels, shooting hither and thither, now with great barges towed behind, now with huge ships, their bows turned seaward, some tortoise-shaped with windows innumerable on each side, speeding across the current, some almost as large as the great monster just arrived ; hastening every way, while lazy ships lay anchored, ugly guns grinning through their port-holes, or with shrouds and rigging filled with fluttering garments hung to dry, and little boats with sail or oar flitted here and there—in a word, with all the variety, bustle and life of the harbor of that city, already great, almost beyond compare, in no great time to be the acknowledged commercial capital of the universe. The mammoth whence? From Great Britain, a week since, obedient to the panting engine and propelled by the silent screw. And still more wonderful, her departure, learned through lightning under the sea, while the

news of her arrival by the same swift messenger was already in London, friend congratulating friend through a mysterious clicking managed by a boy. The sight was not uncommon. Nay, it was so much the contrary that only here and there among the throngs who blocked each other's way upon the shore on either side did scarce one care to waste a thought on so ordinary an occurrence. And the crowds upon the monster's deck were soon jostling each other on their way ashore, seeking the strange iron rail and the smoking, tireless iron horse, to speed them thence to their destinations throughout the country, thousands of miles, some of them, away, where natural and artificial wonders were the daily enjoyment or sustenance of millions upon millions of industrious, happy people.

Two centuries ago one of your forefathers or mine stood upon the shore gazing excited over the same expanse upon a ship which was making its way into the port of Perthtown, then surveyed and mapped out, indeed, but a hamlet with "ten or twelve houses thirty feet long, sixteen or eighteen wide, ten feet betwixt joint and joint with a double chimney made with timber and clay," as the manner of the country was to build. Forests lined each shore, and from the headlands peered forth here a coffee-colored face, there one of European origin, by no means joyful, yet curious at the unusual sight. Such an one, indeed, had never before saluted vision there. Here was a ship of three hundred and fifty tons, loaded with weary, hungry, sick, destitute, and many enslaved human beings, the remnant of a company

which set sail months before and nearly half of whom, seventy out of 200, from pestilence, starvation, storms and cruelty, had succumbed to misery and found a watery grave. Of the two hundred, one hundred and thirty were taken from prisons, where they were held for disobedience to laws interdicting religious liberty, and accepted banishment with more or less willingness, to escape greater misery at home. With what sad eyes did they gaze upon a land only welcome as an exchange for a prison, and where to pay the cost of their journey they were to be slaves for a term of years! With these were others who sought the wilderness with hope and to acquire freedom; but such were few among the many. This was the ship's company—the freight of the *Henry and Francis*, the first emigration induced by the Lords Proprietors, the earliest settlers direct from the parent country, of the Province of East New Jersey. And now while the then hamlet, whose attractions were the theme of *Scot*, of *Pitlochie*, is still far behind in the race of cities, her beautiful shore looking out to sea, over her magnificent bay, still unappreciated by the capital and taste of the century, her many natural advantages passed strangely by, while other less favored spots are greedily appropriated; yet around and about her is a population of millions, happier, or at least, having the right to be happier, than all the world beside; the descendants of the miserable wanderers of 1685, scattered everywhere, most of them utterly ignorant of their origin, contributing to the strength and felicity of this broad land, whose freedom excels all other freedom because it is the freedom of God's truth.

Vainly do we guess, as we look back these two hundred years, what a change a like period hereafter may produce. Profitless indeed is the thought. Yet, meditating on the progress of the past, what may not be expected? Not, indeed, that the event we celebrate this day will ever again have its centennial. The work of the "Council of Proprietors" is all but done. They must hereafter be not title-makers so much as title-keepers, or better yet, as once they gave up to sovereignty the reins of government, they will do best to sell and Government will be wise to acquire from them their remaining claims of right and the custody of their records. This done, the mission of the Council of Proprietors of East New Jersey will be accomplished.



PROF. COOK'S EXPLANATORY STATEMENTS

AND MAPS.

New Jersey is a part of that country granted by King Charles II. to his brother James, Duke of York, on the 12th of March, 1664. It was described as covering "all the land from the west side of Connecticut river to the east side of Delaware bay." On the 20th of June, 1664, the Duke of York sold to John Lord Berkeley and Sir George Carteret, "all that tract of land adjacent to New England, and lying and being to the westward of Long Island and Manhitas Island, and bounded on the east part by the main sea and part by Hudson's river, and hath upon the west Delaware bay or river, and extendeth southward to the main ocean as far as Cape May, at the mouth of Delaware bay; and to the northward as far as the northermost branch of the said bay or river of Delaware, which is $41^{\circ} 40'$ of latitude, and crosseth over thence in a straight line to Hudson's river in 41° of latitude; which said tract of land is hereafter to be called by the name or names of New Cæserea or New Jersey," (Leaming and Spicer.)

The grant to the Duke of York was made when the country was in the possession of the Dutch, and in a time of peace. The English fleet sent out to take possession of the grant accomplished its object on the 26th of April, 1664, and the ownership of the country was

quietly transferred from the Dutch to the English. As all the business relating to this description of the country and its transfers was transacted in England, and before the English had any accurate knowledge of its geography from their own occupation, it is probable that they were guided by the Dutch maps, for which that people had been acquiring material ever since the arrival of Henry Hudson, fifty-six years before this time.

A copy is here inserted of the map published by Adrien Van der Donck* in 1656, and intended to accompany his description of the New Netherlands. The

*Adrien Van der Donk was a Hollander of education and a lawyer by profession. He came out to America in 1642, and was settled in Albany as Sheriff of Rensselaerwyck. He afterwards purchased lands along the Hudson between Spuyten-duyvel and Saw-mill creek. His neighbors called him Jonker, which is the Dutch for gentleman, and the present Yonkers, which is on the ground formerly owned by him, was probably named from this title of his. He was the only lawyer in the Dutch Colony, and the authorities refused to allow him to appear in court, as there was no one to oppose him. The second edition of his "Description of the New Netherlands," with this map accompanying it, was published at Amsterdam in 1656.

There are in existence several old Dutch maps of the country now covered by New Jersey and the adjoining parts of New York. They were published by different authors at dates varying from 1650 to 1680, but are, evidently, all copies of one original, or possibly printed from the same plate. I have taken the map first from Van der Donck's, because he was long a resident here, but have compared it with Vischer's map of 1659, and have drawn the meridians and parallels from the latter, as it is said to have been the one used by the Commissioners in settling the partition line in 1769. Both maps are in the library of the New York Historical Society, and Van der Donck's is reprinted in Vol. I of the New York Historical Society Collections, Vol. I, New Series. The copy of the map inserted here is of the exact scale of the original, and I have drawn on it the northern line of the province in 1664, and the quintipartite line of 1676.

G. H. C.

map is without the ordinary lines for latitude and longitude, but in his description he says that it extended from latitude $38^{\circ} 53'$ to latitude 42° along the coast. The author says that the Dutch have traveled inland "210 to 240 miles, and have trade with Indians who came more than ten or twenty days journey from the interior." His map shows New York and Esopus, now Kingston, and on the Delaware Fort Elsinboro, at the mouth of Salem creek, and Fort Nassau at the mouth of Timber creek. The Delaware river has the Schuylkill on its right bank, and on its left bank is the Musconnetcong and Lake Hopatcong, and strangely enough this lake is connected with the Wallkill, which runs north-east and joins the Rondout creek and the Hudson at Kingston. Still farther up the Delaware we see the Navesink extending towards the northeast and joining Rondout creek, to flow into the Hudson. The latter is now the line of the Delaware and Hudson Canal. In both these the heads of the streams are really separated only by short carrying places. The upper Delaware itself is shown only as an insignificant part of this stream. There was a Dutch settlement at Kingston in 1614, and settlers entered the valley of Rondout creek and passed from that over to the Delaware, and a good road was opened into the valley of that river in Sussex and Warren counties before the English took New York.

If we assume that this was the best map of the times, and used for locating the grant of New Jersey, the straight line from the most northerly branch of the Delaware may be drawn from the mouth of the Navesink (which is $41^{\circ} 40'$ of the map), to the Hudson just south of Spuyten Duyvel creek (which is 41° north, of the map), and this line, with the Hudson, the Atlantic

and Delaware bay and river, were the boundaries of New Jersey as then understood.

The Province was held as the joint property of Lord Berkeley and Sir George Carteret till after the war with the Dutch in 1673. In March 18, 1674, John Fenwick obtained for himself and Edward Byllinge the right of Lord Berkeley in the Province of New Jersey. (N. J. Archives, Vol. I, p. 185.)

The first recorded notice of a division of the Province is in July 28 and 29, 1674, when the Duke of York renewed the title to Sir George Carteret, and gave him "individually all the Province north of a line drawn from a certain creek called Barnegat to a certain creek in Delaware river next adjoining to and below a certain creek in Delaware river called Renkokuskill." (Leaming and Spicer, p. 47.) This division, however, does not appear to have been generally recognized.

In 1675 John Fenwick, who, with Edward Byllinge, had succeeded to the rights of Lord Berkeley, settled in Salem, but no evidence beyond this appears for a division of the Province.*

*In the "Journal of a voyage to New York and other American Colonies in 1679-80, by Jasper Dankers and Peter Sluyter, Hollanders," it is said that "the east side of the river (Delaware), which is now entirely in the possession of the Quakers, has never been claimed by anyone, although here and there lived a Swede, as also among the Swedes here and there dwelt a Hollander. But when the whole country, in 1664, came to the crown of England under the Duke of York, the Duke or the King gave the land lying between the two rivers, namely the North river and the South river, the easterly part to my Lord Carteret, and the westerly part to my Lord Berkeley, but without a boundary line between them. This remained so a long time, when Mr. Byllinge, a brewer of London failed there, Berkeley, who was a great friend of his—as well as many other courtiers—and frequented his brewery daily, came to his

The terms of agreement for a division were, however, made, probably in London, on July 1, 1676, between Sir George Carteret on the one part, and William Penn, Gawen Lawrie, Nicholas Lucas and Edward Byllinge on the other part. By this agreement Sir George Carteret was to have the easterly part, which was to be henceforth known as East New Jersey, and Penn and his associates to have the westerly part, henceforth to be known as West New Jersey. This "Quintipartite Deed" described the division line as a straight line drawn from the most northerly point of the Province to the most southwardly point of the east side of Little Egg Harbor. The wording of the deed is that "one equall moyety or half part" (Leaming and Spicer, p. 61), belongs to each party. If we take Van der Donck's map and draw a straight line from the mouth of the most northerly branch of the Delaware to the north side of Little Egg Harbor Inlet, and draw the northern boundary from the same point to the Hudson in latitude 41° on the map, the parts of the Province, as shown by the map, will be nearly equal in area, if Staten Island is included in East Jersey. Staten Island is plainly in the original grant. (Proc. N. J. Hist. Soc., Vol. X.)

Settlements increased rapidly after this division, and

brewery and told him that as he, the brewer, was a broken man, he could advise him how to recover his fortune; that if he could furnish him a sum of money he would, by authentic writings, make over to him a tract of land which the King had given him. This suited the brewer very well, who succeeded in obtaining the money from his friends, and this land was accordingly transferred to him. But as the affairs of the brewer would not permit him to act himself, he had a friend named Fenwick, also a Quaker, who was to transact the business in his own name for him, the brewer, in consideration of which Fenwick was to enjoy a tenth of the whole westerly part."

it soon became necessary to survey and mark the partition line. This was undertaken by the Surveyor-General of East Jersey, George Keith, in 1687. He began at Little Egg Harbor and surveyed a straight line for sixty miles, and untill it met the south branch of the Raritan near Three Bridges.* This line was unsatisfactory to the Proprietors of West Jersey, and was not surveyed any further. It is still well known, and is marked as the division line between Ocean and Burlington counties. But it evidently runs to the west of any proposed division line, though the course run by Keith is correct for dividing New Jersey as given in Van der Donck's map into two equal parts; but the map was not correct, and hence came difficulties in making the division. In 1688, Robert Barclay, Governor of East Jersey, and Daniel Coxe, Governor of West Jersey, both living in England, proposed to have the partition line of Keith, as far as surveyed, adopted, and then to continue the line across the south branch of the Raritan in a northeasterly direction to the north branch of the Raritan; then up this branch to its north end, and thence in a straight line eastward to the nearest point of Passaic river, and thence down that river to its junction with Pequananac river, and up the latter as long as it runs northerly or northwesterly, to the bounds between the

*This line was run "North & by West & 3 degrees & 5 minutes more Westerly (N 14° 20' W) according to the needle or Magnetic position; and by natural position North North West and 50 minutes more westerly (N 23° 20' W) according to the Agreement betwixt the Governor [and the] proprietors of both Provinces; the variation of the needle in this place of the world being nine degrees westerly." (Liber O., p. 1, Surv.-Genl's Office, Perth Amboy.)

Provinces, or until it reaches 41° of latitude, and then to run due east to Hudson's river. (N. J. Archives, Vol. II, p. 34.) This proposal was not accepted by the Proprietors of East Jersey, but it has given rise to serious differences in locating surveys in the two divisions. This proposed division line is indicated on the map at the end of this paper, by a dotted line.

After many other attempts to settle upon a satisfactory partition line, a commission from East and West Jersey and New York was appointed in 1719, with authority to ascertain the latitude of $41^{\circ} 40'$ on the Delaware river. (Laws of N. J., 1719, Nevill, Chap. 27, p. 77.) This point was found and marked and accepted by the New York Commissioners as the westerly end of the New York and New Jersey boundary, and by the West Jersey Commissioners as the northern end of their partition line. (Book D2 Deeds, p. 280, gives report, and G2 Deeds, gives map; Sec. State's Office, Trenton.) It did not meet the final confirmation of the New York authorities, but it still remains as the established northern point of the partition line between East and West Jersey. The monuments can still be found at Cohecton, on the Erie Railway, about thirty miles above Port Jervis. The line, however, was not finally acceptable to the Proprietors of West Jersey, and they did not join in having it surveyed.

The Proprietors of East Jersey, however, finally employed John Lawrence, a surveyor in Upper Freehold, Monmouth county, to survey and mark the line, which work was done in the Fall of 1743.

THE boundary line of New York and New Jersey was long a subject of contention.* A number of patents were granted by the State of New York for lands in New Jersey, and the Proprietors of East Jersey made grants of land which New York claimed to be within her bounds. The East Jersey Proprietors claimed the straight line joining the point of 41° north latitude on the Hudson to $41^{\circ} 40'$ on the Delaware, to be the just partition line. The Province of New York first claimed that the proper division would be made by a straight line from the head of Connecticut river to Reedy Island, at the head of Delaware bay. This preposterous claim was drawn from the wording of Charles II.'s first grant. It was, however, soon abandoned. It then claimed that a point opposite Yonkers, on the Hudson, should be the east end of the division line, and that it should run from there to the forks of the Delaware where the Lehigh joins that stream at Easton. Afterwards the line from opposite Yonkers to Minisink Island, in the Delaware, was proposed.

The question was finally submitted, by both Provinces, in 1763, to the decision of the crown, and Commissioners for the purpose were appointed in October, 1767. They were Charles Stuart, John Temple, and Peter Randolph, Surveyors-General for the District of Quebec and of the Northern and Southern Districts of America respectively; Andrew Elliot, Receiver-General of the quit-rents in the Province of New York; Chambers Russell, Judge of the Court of Vice Admiralty for the

* A movement was made for the defining and marking of this line in 1685 or 1686. See deposition of Governor Lewis Morris, Book F2, Deeds, p. 435, Sec. State's Office, Trenton, N. J. The line as indicated by Governor Morris, is marked on the map here inserted,

Province of Massachusetts; William Allen, Chief-Justice of Pennsylvania; Samuel Holland and William De Brahm, Surveyors-General of lands in the Northern and Southern Districts of America; Andrew Oliver, Secretary of the Province of Massachusetts; Charles Morris, Surveyor of lands and one of the Council of Nova Scotia; Peyton Randolph, Attorney-General and one of the Council of Virginia; Benjamin Franklin, of the Province of Pennsylvania; and Jared Ingersoll, of the Colony of Connecticut. John Jay was their Secretary. The Commissioners met in the rooms of the Chamber of Commerce, New York, on the 18th of June, 1769, and continued their sessions until October 7, when their decision was rendered.

Their decision was "that the boundary or partition line between the said colonies of New York & New Jersey be a direct & straight line from the fork at the mouth of the river Mahackamack in the latitude of forty one degrees, twenty-one minutes and thirty seven seconds to Hudson's river at the [marked] rock, in the latitude of forty one degrees."

This line did not satisfy either of the parties interested, and there was much talk of rejecting it, by both. But after a time more conciliatory counsels prevailed, and it was accepted, and was confirmed by George III. in 1773, and surveyed and marked in 1774.

The changing of the western termination of the New York and New Jersey boundary from $41^{\circ} 40'$ of latitude to $40^{\circ} 21' 37''$, which is a point considerably farther east than the former one, created among the West Jersey Proprietors a desire to have the partition line between the two parts of the State re-surveyed and run as a straight line from Little Egg Harbor to the mouth of

the Nevesink at Carpenter's Point. They contended for this line many years, but it was never surveyed and marked. And in a lawsuit in regard to lands in the interval between Lawrence's line and this proposed line, which was decided by the Supreme Court of New Jersey in 1855, Lawrence's line, as marked by him, was declared to be the true division line between East and West Jersey. (1 Dutcher, pp. 1-40.)

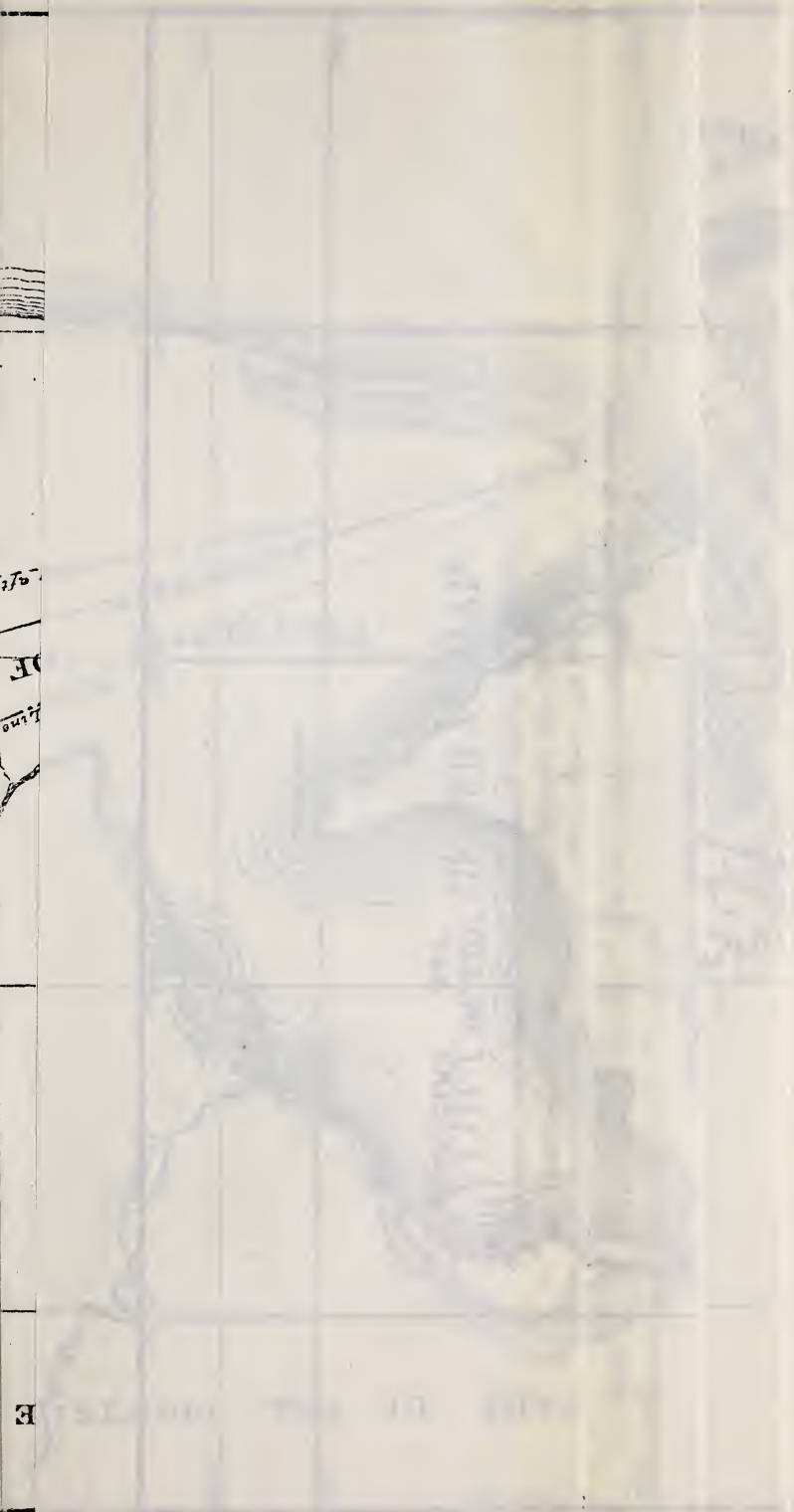
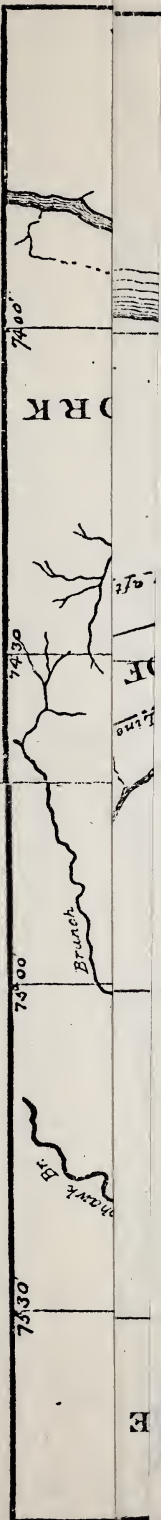
Staten Island, which is plainly within the bounds of New Jersey as described in the grants from the Duke of York to Lord Berkeley and Carteret, was early claimed by New York. Governor Philip Carteret claimed it for the New Jersey Proprietors, and it was one of the causes which led Governor Andros, of New York, to take Governor Carteret prisoner and convey him to New York for trial. Governor Carteret was sustained in his government. The question of jurisdiction was not settled finally till 1833, when, by mutual agreement between Commissioners from the two States, Staten Island was included within the boundaries and jurisdiction of New York. This agreement was never confirmed by any action of the Proprietors of East Jersey.

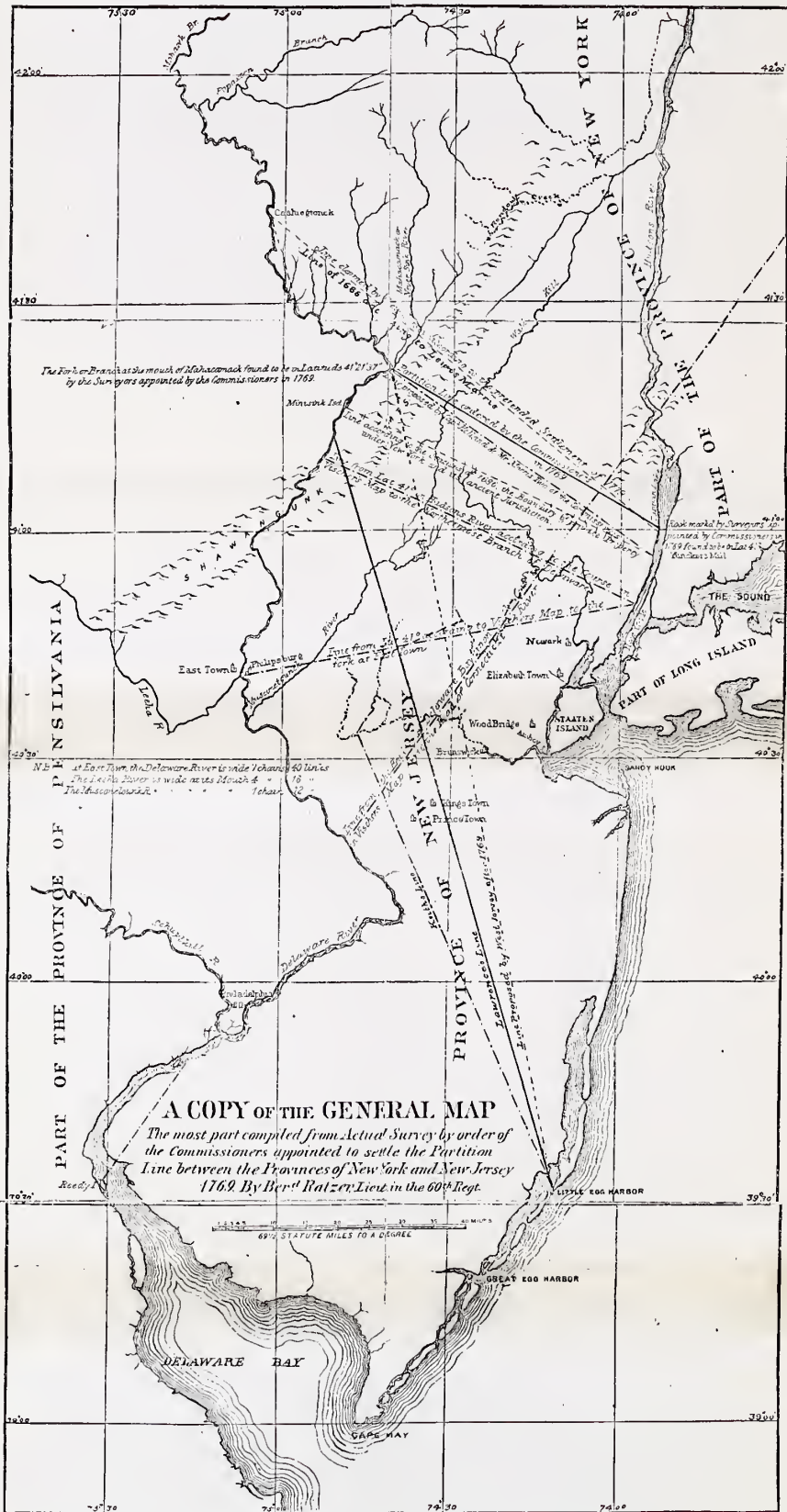
The Commissioners to settle the partition line in 1769 had a map of New Jersey and the adjoining parts of New York prepared for their use by Lieutenant Bernard Ratzer, of the British army. This map cannot now be found, though the other papers of the Commission are in the library of the New York Historical Society. A certified copy of the map, which was prepared at the time for the use of Lord Sterling, one of the East Jersey Proprietors, is also in the same library. Another certified copy of the same map is in the library of Har-

vard College. This latter map was prepared for the advocates of the claims of New York, and it has on it the several partition lines which were proposed by that State. A reduced copy of this map is reproduced here, and I have drawn on it the line surveyed by George Keith in 1687; that surveyed by John Lawrence in 1743; and that proposed by West Jersey after the New York and New Jersey partition line was established. I have also indicated on it by a dotted line the division between East and West Jersey proposed by Governors Barclay and Coxe in 1688, and have also dotted lines to show the course of the Raritan and Passaic rivers in New Jersey, and of Rondout creek in New York.

The more accurate survey of the State shows that the division line adopted in the Quintipartite Agreement and run out by John Lawrence, does not divide it into "two equal moiety," but West Jersey is much the largest in area, containing 4,595 square miles, while East Jersey has only 2,981 square miles, which is less than two-fifths the area of the State. The gore claimed by West Jersey after the New York and New Jersey boundary was settled, contains 648 square miles, and, if allowed, would have made West Jersey to contain more than twice as much land as East Jersey. The gore claimed by East Jersey, but which was set off to New York by the Commissioners in 1769, contained 291 square miles. Staten Island contains fifty-eight square miles.

The boundaries of East Jersey are now well ascertained and defined by the courts and by legislation. But the difficulties which have attended their settlement furnish remarkable instances of the controversies which arise from the use of incorrect maps.





The Influence of the Proprietors In Founding the State.

*Mr. President, Gentlemen of the Board of Proprietors,
Ladies and Gentlemen:*

"We, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, do ordain and establish this Constitution."

These words are the ordaining clause of the present constitution of New Jersey, which was adopted in 1844. They are not the introduction to the terms of an agreement; they begin no compact. They are a creative fiat; they call into being a law of laws for the commonwealth; they institute a government. But the people who thus ordain, who exercise this highest original faculty, are not themselves the product of a single creative act. The self-government here in full activity, the only real counterpart of the people, was a growth, to whose perfecting many agencies contributed.

The nature of an act done by an absolute monarch and that of the ordaining act of a self-ruling community, are nowhere more clearly contrasted than in the feelings of interest with which we regard the two. The former excites no curiosity as to the origin of its pro-

ducing power. It has the same source as the commands of a wilful child, and is as single in motive; whereas the sovereign act of a people leads us to inquire by what process the many individual wills have been wrought into the one will, which, with a mature consciousness, imposes laws upon itself. The enduring constitution of a free people, always implies a historical growth in that people.

The political life of the people of East New Jersey embraces five periods of varying length. The first, excluding the discovery and the taking possession of the territory, begins with the grants of 1664, respectively from the King to the Duke of York and from him to Berkeley and Carteret, and ends in 1682, the date of the transfer of soil and rights of government to the twenty-four Proprietors—a period of eighteen years. The second period was twenty years long, to 1702, the date of the surrender of powers of government to the Crown. The third period was that of the royal government from 1703 to 1776. The fourth from 1776 to the adoption of the Constitution of the United States in 1788. The last, the national period of ninety-six years.

Which one of these was the period distinctively formative of the political character of the people of New Jersey? The answer to this question does not lie upon the surface of the events of these divisions of the past, for strongly marked as are the lines which separate these periods, there is but one growth, in which they are all necessary factors; so complete is the unity of continuous life, that the history of one involves the consideration of all. Our investigation brings us face to face with this fact, that all these separate stages are vitally essential to the complete development, therefore in one

sense equally essential, yet we are cheered in our further search by the reflection that there must have been a time whose peculiar relations to its past and future were more fully determinative of political character than those of any other period. Is there not in the life of every people a time, when the motives and thoughts and all the lines of social life of the past come together, and then all lengthen on into our present, so that if we trace them back they seem to have radiated from that point and further back all radiate toward that point, so that viewed as a whole, the influences and causes and effects of the remote and intervening past there intersect? This is true of the great world history. The ancient nations are all merged in the Roman Empire: out of Rome all modern nations have emerged. The period of Roman supremacy was the point of intersection where the lines of all human activity crossed. Something of the same sort is true of this State community, whose formative point is to be found in the time of the Proprietors; the active principle in this case, however, was not Force, the world-conqueror, but the quiet beginnings of home rule.

The grants of 1664 and the "concessions" from the Proprietors, Berkeley and Carteret, began the work of founding the separate community. The grants fixed the boundaries of the future State as a distinct part of the realm, owing allegiance and having a right of appeal to the English Crown. Do we value the separate existence of our State? Let us be grateful then for the timeliness of the grant. Had it not come at this time, in all probability it would never have come. The concessions besides granting as it were by grace, certain freedoms and immunities, particularly religious

rights, establish a general representative assembly. The legislative powers granted to this assembly were adequate to all the needs of the community, comprising the power to appoint a time for the meeting of the assembly and its adjournment, to enact all laws necessary for the government of the Province, provided they were agreeable to the English constitution and not against the interest of the Proprietors or the concessions. The assembly had the further power to erect courts and determine their jurisdictions, the power of taxation, of dividing the Province for local purposes, war powers and the power of naturalization. But these powers were not to be exercised independently of the assent of those who represented the Proprietors—namely, the governor and a council appointed by him. The governor and his council were thus constituted a co-ordinate branch of the legislature and they received by the concessions some important executive and legislative functions to be exercised independently ; and as though implying that they might exercise powers not expressly delegated, they were prohibited from acting contrary to the laws of the Province, and a section taken from the Magna Charta and the Petition of Right forbade their imposing any tax without the consent of the General Assembly. The concessions thus formed a fundamental law adequate to the settlement and government of the Province. They gave a guarantee of some of the most important rights and they left to the people a large control of their local concerns. They were very important in that they began in New Jersey the process of differentiating English self-government. Back of all, was the King and the Parliament—the English constitution,

but there was a wide field for special law-making, which the orders of the King and the acts of Parliament did not enter. In this field the New Jersey General Assembly had somewhat of the dignity of Parliament. There was an implied recognition of a difference in the political life of the Province, in that but one of the vital parts of the English constitution as found in the Petition of Right was lodged in the concessions—the principle of taxation by the legislative power alone.

It was further prophetic of a new era that Carteret, who had held the Island of Jersey against the Parliamentarians to the very last, should, with Berkeley, another Royalist, adopt this most important principle which the Revolution had gained as a part of the primal law of the new Jersey.

This earliest constitution was in the nature of a compact with the individual settlers, and afterwards, as they came to be represented in the assembly, with the people as a body. But something else was needed to constitute the people within the bounds of New Jersey a body politic, in whom original political power might be said to inhere. This something was not the mere act declaring and establishing independence, but the generating and gradual growth of a spirit to which independence, in the fulness of time, should be not an unnatural act but a part of the regular process of development. The beginnings of such a growth were not directly supplied by the concessions which came from without. The new life must have its source in the people themselves.

The first evidence of an original political life in the people was in their restlessness under the operation of the concessions. The representatives in the assembly

very early insist upon a joint session with the governor and council, where their power from their superior numbers must over-rule that of the governor and his council. By successfully resisting this effort the representatives of the Proprietors secured to New Jersey in the earliest assemblies the manifold advantages of two houses in legislation.

The next display of the popular spirit was in the refusal to pay the quit-rents stipulated in the concessions. This opposition was in the strictest sense illegal; so far as the concessions were building up the Province, it was disorganizing—the so-called disorganizing Assemblies of 1671 and 1672 going so far as to seek a virtual overthrow of the properly constituted provincial authority through the choice of James Carteret as president of the country. But the value of this illegal resistance in awakening and strengthening in the people the power to perfect an organic law was two-fold; first, the imposition of quit-rents, even though sanctioned by the fundamental law, had something of a feudal nature, and it called up that spirit which the feudal system of the middle ages universally awakened, the spirit of resistance, a personal resistance, a defiance on the part of the individual. The tendency, then, was to strengthen individualism, individual character on its good side as well as its bad we shall find if we follow this influence far enough. The devotion to public liberty of New Jersey, like that of Virginia, has ever been infused with a marked zeal for personal freedom. This spirit in the southern State may be attributed in part to the isolation in which the planter lived. In New Jersey the series of early events connected with the Elizabethtown grants, the harassing influence of the demands for the

quit-rents and like causes, contributed also to the formation of the same characteristic. But as individualism grew, the sense of the value of government was not, in the end, impaired, and individual responsibility for it was quickened. A second result of the differences between the government of the first Proprietors and the people was the development of the town as an essential factor in the Province. Almost from the first these political units of the State had, through the grant of large prudential powers from the governor and council, a vigorous life. As distinct and integral political organizations the towns, whether together in the assembly or in their separate town meetings, were made the instruments of opposition to the representatives of the Proprietors.

The various immediate objects of opposition to the governor and council were not gained either by the individual man or by the towns, and this failure was not without influence in teaching them real self-government. They learned that it was not the caprice of the individual, nor the shifting opinion of all within the circle, whose centre was the one market place. True, the towns had by grant from the Proprietors their special privileges, but these could not form a body of law for the Province, nor supersede its necessity. So men and the towns find their way back to the concessions. The deputies to the General Assembly are still in opposition to the governor and council in 1681, but now they insist that the concessions are to be taken according to the letter, without any interpretation whatsoever; that the constituting of courts by governor and council, and the explanation of the concessions made in 1672 by Berkeley and Carteret, are a breach of the concessions,

and the deputies declare the inhabitants of the Province not obliged to conform themselves thereunto.*

The assembly for the first time in the history of the Province was then dissolved by the governor, an act which the deputies unanimously protested was contrary to the concessions and an innovation of the government. The beginnings of the power and the spirit of complete self-government were here manifest. They deliberately chose the concessions as the basis of their political life.

In 1683 the deputies attempt to "disown" the concessions, but now the governor and council are strict in their adherence to the "foundation of Government."† Thus the concessions, alternately favored and opposed, are rooted more firmly, just as that tree is more firmly rooted, upon which the wind blows from various quarters.

A happier evidence of the beginnings of the higher political life of New Jersey as a distinct community, was afforded in 1680. The spirited opposition of the deputies to the governor of New York, when he attempted to usurp authority over the Province of New Jersey, the manly resistance of Governor Carteret to the same usurper, and particularly his letter in which he denies a right of levying duties, in the interest of the Duke of York, without the consent of the New Jersey assembly, unite for the time being, all the forces, to render an enduring service in the making of the State. The service was the greater, because of the simultaneous action of West Jersey for the same noble end.‡ This effort of the

* N. J. Archives, I., 355, 356, 359.

† Record of Governor and Council, p. 80.

‡ Smith's History of New Jersey, p. 117.

two Provinces, successful in vindicating their rights to freedom from taxation was a triumph for the agencies which would one day demand independence for the reunited halves of New Jersey and for the united Colonies, while the influence of the victory for equal commerce lived in New Jersey until the adoption of the Constitution of the United States. The action of Carteret in defending the jurisdiction of New Jersey against the encroachments of Andros, aroused a hostility to the latter in England, which brought about his recall and helped to awaken the spirit which later in England defended the cause of America.

In the first period, then, this much had been done to form a new people. Under the concessions, the Province began to be settled; individualism as a necessary part of self-government gains greater significance; town government is begun and influences the growth of the embryo State, while the Province as a whole begins to be something more than a mere name; it is a part of the English realm, but a distinct part and not a dependency of New York.

When the rights of soil and of government were transferred to the twenty-four Proprietors in 1682, many of the conditions which are of universal value in the making of a State, were present. The time, the last quarter of the seventeenth century, was one of general political formation. The Thirty Years' War had run its disastrous course; William of Orange fought absolutism on the Continent, and the Revolution of 1688 began a new era in England; the Great Elector, after the battle of Fehrbellin, was laying the first foundations of Prussia. Only France was given over to absolutism, but by the revocation of the Edict of Nantes she gave

in the Huguenots some of the best of formative elements to South Carolina. Massachusetts and the New England colonies began a new career, when the attempt at centralization by James II. failed and their charters were restored. In 1684, many of the colonies joined in a defensive league against the savages, the second of the minor prophecies of the great Union to come.

The young community shared in the influences of the general movement; and there were special conditions which favored her growth. A law of the General Assembly of 1676 speaks of the Province as being "in its minority." * Like a prince one day to be a sovereign, who attains his majority at the age of eighteen, so New Jersey after the first period of eighteen years, was ready to begin the work which should fit her for the higher duties and powers. Here was a people beginning to prosper, but hopeful rather than contented; of conflicting motives, but the motive to union always in the end prevailing; in close relations with nature, who imparted to them qualities which they could never lose but must transmit to their posterity. She gave them rich promises; "here is a brave country," writes Rudyard, the first Deputy Governor under the new Proprietors; "here is a gallant, plentiful country," writes Lawrie, his successor. Penn took a view of the land and said he had never seen such before in his life. "The people," said Rudyard, "are generally a sober professing people, wise in their generation, courteous in their behaviour, and respectful to us in office among them." † The people in accepting the early concessions, had "expectation," so they said in West Jersey, "of some *increase* of

* Leaming and Spicer, 120, 122.

† Smith, 169, 170, 179.

those freedoms and privileges, enjoyed in" England, and the expectation grew with the growth of the Province and with the change of the proprietaries. It was a tendency that could not be stayed until the people were, in their own phrase, "*owners of their liberty*." * How was this tendency met by the twenty-four Proprietors? Whatever their theory was as to the necessity of a firmness of administration to gain their pecuniary rights, in other respects their conduct harmonized with the wishes of the people. In "a brief account of New Jersey, published in 1682, by the present Proprietors, for information of all inclined to settle in that country," they say that in the concessions, provision was made for liberty in religion and property in estates, and "we," they continue, "shall be ready and desirous to make such further additions and supplements to the said Constitution, as shall be thought fit for the encouragement of all planters and adventurers, and for the further settling the Colony with a sober and industrious people." † Whatever change, then, the Proprietors might make in the organic law could only be construed in the light of this promise, the spirit of which as well as the letter, bespoke the largest liberty for the emigrant. So too, the seal of the twenty-four Proprietors, as they undertook the duty of government, was in keeping with this natural character of the Province and of its people. Every official act of the twenty-four Proprietors received the stamp of this seal, on which were exquisitely engraved the emblems of plenty and of even-handed justice. Surrounding the emblems were these legends; "Righteousness exalteth a nation. Its God giveth in-

* Ibid, 120, 124.

† Smith, 542.

crease." Thus every act of theirs testified to their recognition of a God-given increase of the fundamental law as well as of the fruits of the earth.

The letter in which the Proprietors announced to the people their purchase of the Province, breathes the same spirit. "We desire nothing more than to approve ourselves as you may find yourselves happy." "Your interest is now so bound up with ours that we cannot suffer if you prosper, nor prosper where you are injured." And they promise "everything that may be needful toward the good government and advantage of the Colony."^{*}

The seal of the Proprietors was further indicative of the character of the new government. The seal of Berkeley and Carteret bore their coats of arms and thus suggested a personal government. The seal of the twenty-four was absolutely impersonal, so far as men were concerned; God alone was recognized as the author of the growth and exaltation of a nation. "It was almost as though human direction were withdrawn, and abstract principles, free from the impress of the mind even of great men, were left to work their own work among the people. The Proprietors were rather the servants than masters controlling the principles of government which were becoming active in New Jersey. "It is not possible for you to understand," so writes Lawrie, the Deputy Governor, to the Proprietors, "what is for the good of the Province as I do that am here,"[†] and in response, the Proprietors adopt the act of the first of August, 1684, in which they acknowledge the necessity "*that there be full and ample power constituted in some*

^{*} Leaming and Spicer, 167.

[†] Smith, 178.

persons in the Province, to do all things that may contribute to the good and advancement of the same." This instrument transfers immediate supervision of the Proprietors' interests and rights from England to commissioners in America.*

Another act, giving ampler powers and more practicable conditions to the new American Board of Proprietors, and freer self-direction to the people, was adopted a few months later, *and two hundred years ago to-day.*† It is fitting that those who hold the power of the State in trust and representative citizens from all parts should commemorate these acts, for they were significant in the founding of the State. They were as important to the development of political power in eastern New Jersey, as "the vote," two generations before, by which in the transfer of the Massachusetts Company to America, "a commercial corporation became the germ of an independent commonwealth."‡ Under these acts, the first full exercise within the borders of the State, of the proprietary power of revising legislation took place two hundred years ago the coming Thanksgiving day. "To all Christian people and others to whom these presents shall come," the American Board of Proprietors address their act confirming the laws of the past two years.¶ In the volume of seven hundred pages, containing these early laws and constitutions, it is the only act so addressed. We may readily infer that the Deputy Governor and his fellow Proprietors who signed the act, were conscious that it indicated a new adjustment of political

* Leaming and Spicer, 195. † Leaming and Spicer, 198.

‡ Bancroft, Hist. of U. S., Cent. Ed. I, 275.

¶ Leaming and Spicer, 281.

forces. The Proprietors become as far as possible identified with the Province. The new Board share with the people in the making of the law, while with all citizens they are equally subject to the provincial law.* But we arrive at the full measure of the importance of this assimilation of proprietary and popular government when by the study of the events of the next half generation, we learn to know the principle of government, which the Board of Proprietors grew more and more to represent. It was neither of the three historic forms, monarchy, aristocracy or democracy. It stood for essentially the modern principle of the non-interference of government, the *laissez faire*, the hands-off theory, the least government the best. It gave the opportunity for the action of a self-determining power within the four bounds of New Jersey, by virtue of which, the inhabitants of that portion of the globe could as one body say with truth, a century and a half later, "all political power is *inherent* in the people."† It is true, the twenty-four Proprietors had prepared for the Province a new organic law—the so-called Fundamental Constitutions, which, though sanctioning in part, were designed to supersede the concessions, and they instructed their Deputy Governor to "order the new scheme of government to be passed in an Assembly."‡ But they tacitly acquiesced in its rejection. In a conference of the deputies with the governor and his council on the 19th of April, 1686, Governor Lawrie made inquiry "of what answer" they gave touching the scheme of government laid before them a few days pre-

* Scot's model in Whitehead's East Jersey under the Props., 398, 447, 449.

† Constitution of 1844. ‡ Leaming and Spicer, 175.

viously. The deputies answer "*that they apprehended the same did not agree with the Constitution of this Province, and that they understood that the same were nowise binding, except passed into a law by the General Assembly.*"

The governor's council had already given it as their sense "*that the same did not agree with the Constitution of these American parts.*"*

The governor did not press the matter, nor did the Proprietors further insist on it, and in this simple way the great act was done, at once asserting and confirming the ordaining power. The people of East New Jersey had determined that by their own authority their organic law should be.

By refusing the fundamental constitutions and planting themselves on the concessions, the people secure all that had been gained in the first period, and the Proprietors, sharing in this essentially ordaining act of the people, the rights of self-government became indefeasible. It was only natural, then, that in an act passed thirteen years later, declarative of rights and privileges, many rights and privileges should be included, which had hitherto never found expression in the Province.† The people were creating the organic law. It was a solemn act. "*The whole House of Representatives,*" so runs the record of the governor and council, "*came before this Board and gave in the Bill of Rights* * * * *passed their House, which was read here and passed this Board.*‡ This act, including many of the provisions of the concessions, has also many features in common with the government which the people ordained in 1776.

* Record of Governor and Council, 125, 126, 128, 131.

† Leaming and Spicer, 368.

‡ Record of Governor and Council, 219.

With this act, which bears the date of the 13th of March, 1699, together with that of the 19th of April, 1686, the work of the Proprietors in helping to lay the legal foundation of the State was complete. It was an anomalous government. An idea grew up after the revolution of 1688 that it was no rightful government. King William contested its title, and the people of East New Jersey petitioned the Crown against the Proprietors, and factions sprang up among themselves. Of the original Proprietors, but *four* were left in 1702 to surrender what they admitted in the instrument of surrender was a pretended right to government, but the fact remains, that better than they, or those about them, knew, they built for all time.

Three-quarters of a century must pass before independence was declared, but the people of New Jersey were already capable of an independent political life. In fact, from 1689 to 1692 there was no general government. The local administration of law secured the peace and welfare of the whole Province. In the contest with the royal governor, Lord Cornbury, in 1707, the representatives of the people reject with abhorrence the charge of the council that they purpose throwing off their allegiance and revolting from the Crown of England. So they abhorred the thought, even after the War for Independence was begun, but they were no less capable of independence had it come two generations earlier. We may note that in this same reply to the complaint of the Lieutenant-Governor and the Council to the Queen, the people do not disclaim the right to judge, as was charged, whether royal orders conformed to law.* The right of self-rule, which they

* Smith, 347, 386.

had gained in the time of the Proprietors and under the influences of their government, they kept until all the Colonies were equally ready to assert with them that this right should be national in America.

But we find evidences elsewhere than in the growth of the fundamental law, that under the influence of the Proprietors the State, as we know it, was gradually forming.

No stronger influence moulds the life of the people of a State than that which comes from its minor political divisions. The town and the county have shaped the life of the States of the Union. In this respect there are three classes of States; those in which the town is the political unit—the six States of New England; the second, those in which the county is the unit—the States of the South; the third, those of the “compromise system,” as it has been called—a mixed organization of county and township prevailing in the Middle States and the West.

Town government sprang into a vigorous, self-directing life at the time of the first Proprietors,* and county government had its feeble beginnings;† but it was only in the time of the second proprietary government that the two organizations grew into a composite whole.

The temptation is great to dwell upon the history of this phase of State development from this time on; to

* During this period local government was exercised by virtue of charter rights in seven towns, namely: Bergen, Elizabeth, Newark, Middletown, Piscataway, Shrewsbury and Woodbridge.

† By a law of the General Assembly of the 13th of November, 1675, the towns were grouped into counties with no very definite limits, and with the sole purpose of erecting courts. Leaming and Spicer, 96.

show how the functions of the two local divisions were adjusted; to point out the unconscious beginnings of the forms and harmonies which exist to-day, but the present purpose of our study will not admit of a statement of its every result. Only in general, it may be said, that to this period is due the founding of that system which, more than any other influence, gives individuality of character to the self-government of the State.*

The constituting of courts is another important forma-

*A view of the methods of *taxation*, as found in the tax laws of the Proprietary period, will, perhaps, best show the germination and gradual growth of local government in New Jersey.

CONCESSIONS.

1664.—By the Concessions the General Assembly has power to lay taxes upon lands or persons within whatever *local divisions* it may erect within the Province. (Leaming and Spicer, 16.)

LAWS OF GENERAL ASSEMBLY.

May, 1668.—First tax, thirty pounds—five pounds to each *town*—in country pay to be delivered by inhabitants to Jacob Mollins, of Elizabethtown. (L. and S., 81.)

November, 1675.—*Towns* and *plantations* grouped into *counties* for the sole purpose of erecting courts. These counties have no very definite bounds, and they receive no names. (L. and S., 96.)

December, 1675.—*Provincial Treasurer* appointed, to whom *town constables* are to bring in the rate. (L. and S., 103, 104.)

December, 1675.—Assembly proposes to raise fifty pounds, Governor's arrears, by *subscription* to be paid to constables of *towns*. (L. and S., 104.)

April, 1676.—*Three select men* to be chosen by the freeholders of every *town* to assess Governor's arrears not subscribed. (L. and S., 117.)

October, 1676.—Constables of every *town* to receive and compel payment of rates levied by the General Assembly. (L. and S., 121.)

1678.—Country rates levied upon land. Governor's salary paid by poll taxes. (L. and S., 129, 130, 125.)

March, 1682.—“For the better governing and settling courts,” in the

tive element. An authority not lightly to be questioned says that Lord Cornbury "is entitled to the credit of having laid the foundation of our whole judicial system"* But the beginnings of it seem to date from the legislation of this period. Here we have the Common Law Courts in town† and county,‡ a Supreme Court for the Prov-

Province, the General Assembly divides it into four *counties*, which receive names and definite bounds. (L. and S., 229.)

1682.—Justices of *County Court of Quarter Sessions* empowered to assess tax for building a jail in each *county* and a pound in every *town*, and to appoint collectors and receivers of this tax. (L. and S., 268. Compare Allinson's Laws, 14.)

December, 1682.—Tax of fifty pounds, apportioned among the *counties*, to be assessed in each *county* by six men appointed by the Assembly, upon improved lands and stocks. *Town constables* to act as *collectors*, and to pay the sums collected to the *Treasurer of the Province*. (L. and S., 274.)

In 1684 the West Jersey Assembly impowers each *tenth* to lay and levy road taxes, and to choose six assessors and two collectors of a general tax. (L. and S., 494.)

April 19, 1686.—Four or five assessors to be chosen by the people of each *town* to levy rates for highways laid out by *County Commissioners* (named by the General Assembly, L. & S., 256), and taxes for all other public charges within the respective limits of the *towns*; the rates and taxes so made to be presented to the *Court of Quarter Sessions* in the respective *counties*. The Justices of the Court to approve, amend and confirm them with the consent of the majority of the assessors. (L. and S., 294.)

The above act, in a large sense the beginning of combined *town* and

* Field's Provincial Courts, Coll. of N. J. Hist. Soc., Vol. III.

† An elective Court in every town having cognizance of cases to the value of forty shillings, a Justice of the Peace to be one of the Court. Leaming and Spicer, 99, 100, 229.

‡ In every county, Courts of Sessions or County Courts, whose sessions were at first annual and afterwards bi-ennial and quarterly. Leaming and Spicer, 96, 230, 268, 347.

ince,* distinctions between law and equity jurisdiction;† provisions for appeals on account of errors or other grounds,‡ for regular prosecutions and issuing of processes§—in short, a systematization of the administration of justice.

Other influences came from the people of that day to determine what the people of this day should be. The very homeliness of much of the legislation of those twenty years shows that self-rule was thrusting out its roots into the best of soil, and yet on the other hand, the General Assembly of this feeble Province could rise to the dignity of enacting in a separate law, the

county action in the matter of *taxation*, was passed on April 19, 1686, the same day on which the Deputies refused the Fundamental Constitutions.

The birth of the mixed town and county system, the special form of New Jersey local rule, was thus coincident with the birth of self-government in the Province as a whole. (Record of Governor and Council of East Jersey, 1682-1703, pp. 131, 132.)

This act was modified nine years later, 1695, but only to facilitate its operation. It was, therefore, thereby virtually confirmed. (L. and S., 355; Compare *inter al* Allinson's Laws, pp. 14, 35, 60, 115; Revised Statutes, Sec. 12, p. 129.)

May, 1688.—To withstand invasion of the French, specific tax on land, cattle, horses, swine, and poll tax on male persons of sixteen, to be levied and collected by *County* Commissioners appointed by the Assembly. Constables of each *town* to receive estimates of taxable prop-

* A Court of Common Right with original and appellate jurisdiction, to have cognizance "of capital, criminal, or civil causes of equity, to be the Supreme Court of the Province," with quarterly sessions. Leaming and Spicer, 232. In W. J., 1693, a Supreme Court of Appeals, Leaming and Spicer, 517, and a Court of Oyer and Terminer, Leaming and Spicer, 520.

† Leaming and Spicer, 232, 348.

‡ Leaming and Spicer, 232.

§ Leaming and Spicer, 253.

thirty-ninth and fortieth chapters of the great Charter ;
 "the essential clauses," as Hallam calls them.*

In the formation of this body of law, there were many conflicts; there was turbulence at times in the Province, but the greatest of living historians has said, that "all progress comes through conflict." Is it not true, indeed, that peace has her victories, *because* war has had hers. A recent address † before the New York Chamber of Commerce is most suggestive in this regard in respect to our national wars. Does not the same hold true in the smaller sphere?

On the freedom of religion, the concessions allowed no restriction, not even by "any law or statute or clause contained, or to be contained, usage or custom of the realm of England," but the people in their Law of Rights in 1699, follow the leading of the English

erty, and deliver them to their respective *County Commissioners*. Taxes to be paid by the inhabitants to the respective *County Treasurers* appointed by this act for the first time by the General Assembly. (L. and S., 305.)

1692.—Method of levying and collecting tax similar to that of 1688. (L. and S., 321.)

In this year the West Jersey Assembly empower each *county* court to appoint County Collectors of a poll tax. (L. and S., 510.)

1693.—The county growing in importance. Each *town* in the county was empowered to choose one or more men to join with the justices of the county court annually, to adjust the debts of the *county* and assess taxes for their payment. (L. and S., 333.)

1693.—King's tax for defence against the French. Twenty men to be raised proportionately from the five *counties*. To maintain these soldiers a tax of four hundred and thirty pounds in specifics to be raised. This

* Leaming and Spicer, 240.

† That of Mr. Evarts, at the one hundred and sixteenth anniversary dinner of the New York Chamber of Commerce.

Bill of Rights of 1689, and decree intolerance of the Roman Catholic religion. In the Constitution of 1776, too, civil rights are guaranteed to Protestants alone. Only in the Constitution of 1844 has New Jersey turned to the times of the Proprietors and brought back again the fearless spirit of complete religious liberty.

For education, the earliest town charters granted by the Proprietors, provided: in Woodbridge, one hundred acres were to be laid out for the maintenance of a free school,* and school lands were to be exempt from quit-rents. The towns established schools, and laws of 1693 and 1695 provided for rates and the regulation of schools by selectmen.†

act appoints one Commissioner for each *town*, who receives from the town constable estimates of all ratables in the town. These Commissioners meet in a body at Perth Amboy and equalize the assessment. The taxes collected by *County* Receivers appointed by this act. (L. and S., 334.)

October, 1694.—Act for the appointment of *County Treasurers*. The justices of each *county court* to appoint at their discretion a County Treasurer to disburse county funds in paying for the destruction of wolves, providing for the poor and orphans, and defraying the county debts. (L. and S., 350.)

1695.—One hundred and fifty pounds in silver, proportioned among the *towns* of the Province and the counties of Monmouth and Somerset, to be levied upon all estates, real and personal, as each *town* and the two counties named shall adjust the rates. General Assembly appoints the collectors, vacancies among whom are to be filled by the *town*, or in the case of Monmouth and Somerset by the county. (L. and S., 353.)

1698.—An act for making town rates to defray town charges. Each *town* chooses three men to assess for (1) representatives' wages, (2) charges about highways, (3) rates for the poor, (4) constables' wages, (5)

* Whitehead's East Jersey under the Proprietors, 287.

† Leaming and Spicer, 328, 358.

We must not leave out of sight the influence of the Proprietors in gathering this provincial population from many parts—from New and Old England, from Scotland, from Ireland, to join them to the Dutch already here to make the one people.

The latest writer on American Colonial History says that the colonists of New Jersey had a strong respect for vested rights.* May we not attribute the feeling to the experience, which grew out of the early and safe system of the proprietary grants, and, on the other hand, of the disputes, in some parts, which enforced the necessity of secure titles?

The contest the people had to establish their fundamental law, taught them the value of a written constitution and the absolute need that law should conform thereto. Though it grew up in part by legislative enactment and though the constitution of 1776 carries the implication of possible legislative amendment, yet in a spirit, born as we may believe in those early days, and certainly expressed in the earliest constitution of

killing wolves, (6) repairing burying places, (7) schools, (8) pounds, (9) clerks' wages. This assessment to be presented to any justice of the peace of the *county*, who may approve or amend the same with the consent of two of the three persons chosen as above. (L. and S., 372.)

1698.—General tax of six hundred and seventy-five pounds. The act introduces a system of taxation on real estate by polls and specifics nearly identical with that later adopted by the State Legislature. (Compare Gordon's Gazetteer, pp. 57, 58; also Laws of West Jersey, 1684, 1685, 1693, 1696, 1697, 1700; L. and S., 494, 505, 521-2, 549, 561, 574.)

By this act an assessor or commissioner was named by the Assembly for each *town*. These assessors to meet in the capital of the Province to equalize assessments. They also serve as collectors and receivers. (L. and S., 376.)

*Lodge's English Colonies in America, 278.

West Jersey, Chief-Justice Brearly in 1780, gave a decision of prime historical importance. Other States than New Jersey have been called the formative centres of the various influences which have combined to bring about the one great result—this mighty union; but New Jersey has at times shown the way. This decision of her Supreme Court was the first of the series which established the principle and at last made it a part of the Constitution of the United States, that an unconstitutional law is no law and it is the function of the judiciary to say so.*

The second occasion when New Jersey showed the way to her sister States, was when she sent her delegates to the Annapolis Convention in 1786. This convention was called to secure uniform regulations of commerce in the Articles of Confederation, then the Constitution of the Union. New Jersey was not unmindful of the struggles she had had, in the times of the Proprietors to secure from New York a commerce rightfully her own, but rising from that consideration, to her perhaps more important than to any other State, for she was like a cask flowing at both ends, tapped by New York and by Philadelphia, she suggested that the amendment should include, besides a power over commerce, "other important matters." The convention caught at the suggestion, and Hamilton, the herald of the better union, proclaimed it as the basis of the call to the Convention at Philadelphia, which gave us the Constitution of the United States.

In the times of the Proprietors, we do not find in

* The decision is referred to by Ch. J. Kirkpatrick, in *State vs. Parkhurst*, IV Halstead, 444.

New Jersey many germs of an American Union, though in one or two cases, the assembly, "sensible of brotherly love to our neighbors," voted men and money for the war on the frontiers against the French. This spirit was with New Jersey of somewhat later growth; it came in royal times, but in the war for Independence, New Jersey ranked with Connecticut next to the first in the number of men she furnished, and other evidences were not wanting of a zeal for the good of the whole Union. But in the formation of the "more perfect union," she represented rather the principle of localism; the home rule of those early days had grown into the idea of the indestructibility of the State. This idea she brought into the federal convention and around the banner of the "Jersey Plan," Livingston and Paterson and Brearly fought for it. When the existence of the principle was assured by the grant of equality of State representation in the Senate, how gladly did these her champions leap forward to give to a nationalism based upon localism, ample powers for the greatest work that ever fell to the lot of one people.

The Legislature of New Jersey had been the first in America to apply to the Union, the phrase of Montesquieu—"a Federal Republic." Unanimously her people ratified the Constitution of the United States, in which it was made real.

The States of Greece, which one may call the creative States, those which made her the leader of the civilization of the world, had together nearly the same area as New Jersey. By the coast line and the lines of the hemming mountain ranges, the forces of their life were turned inward; so New Jersey was confined by careful bounds, and her life grew from the forces concentrated

within her borders. When absolutism swept down upon Greece from the East, she repelled the Persian invader on the plain of Marathon. On the plain of Monmouth, the humble commonwealth, aided by her sister States, fought, if not the decisive battle, yet the one prophetic of the final overthrow of English absolutism; for after it Frederick the Great said, "America is lost to England." But the destroyer of Greece came from the West. The self-government of Greece, which was her glory and the cause of her power, was engulfed in the imperialism of Rome. When the imperial idea arose in the Western Hemisphere, promising a new nation of gigantic proportions, and with the possibilities of unbounded Continental strength, with the aid of the other pent-up States, all but one proprietary, New Jersey, in the Federal Convention, lodged in the foundation of the indissoluble Union the integrity of the individual State. New Jersey was never enrolled among the World-States, but happier than Greece, she insured to herself an unending future. She made her continued existence the condition and the cause of imperial strength. Largely through her influence and further back, the influence of her founders, *local* and *national* self-government are blended, yet each keeps its identity. The fruits we enjoy grow on the tree of this self-rule:

—the one great tree, that up from old time
 Growing, contains in itself the whole of the virtue and life of
 Bygone days, drawing now to itself all kindreds and nations,
 And must have for itself the whole world for its root and branches.

5776H

